



REAL ESTATE APPRAISERS BOARD
Teleconference/Virtual Meeting
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
September 9, 2014

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-4)**
- B) Welcome New Members**
- C) Approval of Minutes of May 7, 2014 (5-9)**
- D) 9:35 a.m. APPEARANCE – Secretary Dave Ross and Assistant Deputy Secretary Tom Engels – DSPPS Updates and Questions and Answers (10)**
- E) Administrative Updates**
 - 1) Staff Updates
 - 2) Appointments/Reappointments/Confirmations
- F) Executive Order 61 – Discussion and Consideration (11-13)**
- G) Review of Appraiser License Renewal Forms and Process**
 - 1) **APPEARANCE – Jamie Adams, Department Renewal Unit Supervisor (14-22)**
- H) Wisconsin Appraiser Application and Continuing Education Requirements (23-30)**
- I) Appraisal Management Company (AMC) Regulations (31-55)**
- J) Disciplinary Matters**

K) Education and Examination Matters

- 1) **APPEARANCE** – Peter Schramm, CE Specialist, Office of Education and Exams – Research Results of Continuing Education Audits and Out-of-State License Holders **(56-57)**

L) Legislative/Administrative Rule Matters:

- 1) Status of Statute and Administrative Rule Matters
- 2) Mandatory Appraiser Licensing Legislation
- 3) Appraisal Management Company (AMC) Legislation
- 4) Background Checks

M) Speaking Engagement(s), Travel, or Public Relation Request(s)

- 1) AARO Fall 2014 Conference, October 17-20, 2014, Washington, DC **(58-62)**

N) Informational Items

O) Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Updates
- 3) Education and Examination Matters
- 4) Credentialing Matters
- 5) Practice Matters
- 6) Legislation/Administrative Rule Matters
- 7) Liaison Report(s)
- 8) Informational Item(s)
- 9) Disciplinary Matters
- 10) Presentations of Petition(s) for Summary Suspension
- 11) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 12) Presentation of Proposed Decisions
- 13) Presentation of Interim Order(s)
- 14) Petitions for Re-Hearing
- 15) Petitions for Assessments
- 16) Petitions to Vacate Order(s)
- 17) Petitions for Designation of Hearing Examiner
- 18) Requests for Disciplinary Proceeding Presentations
- 19) Motions
- 20) Petitions
- 21) Appearances from Requests Received or Renewed
- 22) Speaking Engagement(s), Travel, or Public Relation Request(s)

P) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

- Q) Monitoring Matters (63-64)**
- 1) James Gargulak – Request for Full License **(65-79)**
 - 2) Felipe Maldonado – Request for Full License **(80-107)**
- R) Presentation and/or Deliberation on Proposed Stipulations, Final Decisions and Orders by the Division of Legal Services and Compliance (DLSC):**
- 1) Melanie J. Horkman – 11 APP 044 **(108-113)**
Case Advisor: Sharon Fiedler
 - 2) Charles W. Teel, Sr. – 13 APP 106 **(114-119)**
Case Advisor: Marla Britton
 - 3) Clinton J. Acker – 14 APP 013 **(120-125)**
Case Advisor: Lawrence Nicholson
 - 4) Michael J. Hauser – 14 APP 016 **(126-131)**
Case Advisor: Lawrence Nicholson
 - 5) Howard B. Richter – 14 APP 023 **(132-137)**
Case Advisor: Lawrence Nicholson
 - 6) Henry P. Schneider – 14 APP 026 **(138-143)**
Case Advisor: Lawrence Nicholson
 - 7) Felipe J. Maldonado – 13 APP 028 and 14 APP 010 **(144-151)**
Case Advisor: Sharon Fiedler
- S) Case Status Report (152-155)**
- T) Case Closing(s)**
- 1) 13 APP 079 **(156-158)**
 - 2) 14 APP 017 **(159-162)**
- U) Deliberation of Items Added After Preparation of the Agenda**
- 1) Education and Examination Matters
 - 2) Credentialing Matters
 - 3) Disciplinary Matters
 - 4) Monitoring Matters
 - 5) Professional Assistance Procedure (PAP) Matters
 - 6) Petition(s) for Summary Suspensions
 - 7) Proposed Stipulations, Final Decisions and Orders
 - 8) Administrative Warnings
 - 9) Proposed Decisions
 - 10) Matters Relating to Costs
 - 11) Complaints
 - 12) Case Closings
 - 13) Case Status Report
 - 14) Petition(s) for Extension of Time
 - 15) Proposed Interim Orders
 - 16) Petitions for Assessments and Evaluations
 - 17) Petitions to Vacate Orders
 - 18) Remedial Education Cases
 - 19) Motions
 - 20) Petitions for Re-Hearing
 - 21) Appearances from Requests Received or Renewed

V) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

W) Open Session Items Noticed Above not Completed in the Initial Open Session

X) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

Y) Ratification of Licenses and Certificates

ADJOURNMENT

**REAL ESTATE APPRAISERS BOARD
WEB/VIRTUAL MEETING MINUTES
May 7, 2014**

PRESENT: Marla Britton; Henry Simon

PRESENT VIA GOTOMEETING: Scott Brunner; Carl Clementi; Lawrence Nicholson; Linda Steinke

ABSENT: Jose Perez

STAFF: Tom Ryan, Executive Director; Pam Stach, Legal Counsel; Daniel Agne, Bureau Assistant; and other Department staff

CALL TO ORDER

Lawrence Nicholson, Chair, called the meeting to order at 9:30 A.M. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

MOTION: Henry Simon moved, seconded by Scott Brunner, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

Linda Steinke joined the meeting via telephone at 9:38 A.M.

MOTION: Marla Britton moved, seconded by Henry Simon, to approve the minutes of February 12, 2014 as published. Motion carried unanimously.

APPOINTMENTS/REAPPOINTMENTS/CONFIRMATIONS

MOTION: Scott Brunner moved, seconded by Henry Simon, to affirm the appointments made by the Chair, as noted below:

- 1) Carl Clementi as the Monitoring Liaison
- 2) Linda Steinke as the Website Liaison alternate
- 3) Linda Steinke as the Rules Liaison alternate
- 4) Lawrence Nicholson as the ASC and AQB Liaison alternate

Motion carried unanimously.

CLOSED SESSION

MOTION: Marla Britton moved, seconded by Henry Simon, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Marla Britton - yes; Scott Brunner - yes; Carl Clementi - yes; Lawrence Nicholson - yes; Henry Simon - yes; Linda Steinke - yes. Motion carried unanimously.

The Board convened into Closed Session at 11:23 A.M.

RECONVENE TO OPEN SESSION

MOTION: Henry Simon moved, seconded by Carl Clementi, to reconvene in Open Session at 1:02 P.M. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Marla Britton moved, seconded by Linda Steinke, to request that the Department research what percentage of out-of-state persons holding a credential in Wisconsin were audited for Continuing Education compliance in the previous biennium. Motion carried unanimously.

MOTION: Marla Britton moved, seconded by Henry Simon, to request that the Department research which states bordering Wisconsin are auditing 100% of out-of-state credential holders for Continuing Education compliance. Motion carried unanimously.

MOTION: Carl Clementi moved, seconded by Henry Simon, to invite credentialing staff into the next meeting to discuss renewal procedures and forms with the Board. Motion carried unanimously.

14 APP 015

JENNIFER J. SIMPSON

MOTION: Henry Simon moved, seconded by Linda Steinke, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 015 – Jennifer J. Simpson. Motion carried unanimously.

14 APP 018

MARY P. BUSHONG

MOTION: Henry Simon moved, seconded by Linda Steinke to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 018 – Mary P. Bushong. Motion carried unanimously.

**14 APP 020
BRIAN W. WILLARD**

MOTION: Henry Simon moved, seconded by Linda Steinke, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 020 – Brian W. Willard. Motion carried unanimously.

**14 APP 022
RYAN D. HERLOFSKY**

MOTION: Henry Simon moved, seconded by Linda Steinke, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 022 – Ryan D. Herlofsky. Motion carried unanimously.

**14 APP 024
BETH M. DARST**

MOTION: Henry Simon moved, seconded by Linda Steinke, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 024 – Beth M. Darst. Motion carried unanimously.

**14 APP 025
STEVEN C. OGASAWARA**

MOTION: Henry Simon moved, seconded by Linda Steinke, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 025 – Steven C. Ogasawara. Motion carried unanimously.

**14 APP 014
GARY R. KRAUSE**

MOTION: Henry Simon moved, seconded by Linda Steinke, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 014 – Gary R. Krause. Motion carried unanimously.

**14 APP 009
CAROL A. LEYGRAAF**

MOTION: Henry Simon moved, seconded by Linda Steinke, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of 14 APP 009 – Carol A. Leygraaf. Motion carried unanimously.

MONITORING MATTERS

TERRENCE R. CHRIST – REQUEST FOR MODIFICATION

MOTION: Scott Brunner moved, seconded by Carl Clementi, to grant the request of Terrence R. Christ to modify the Order to allow respondent to satisfy the education requirements under § 4(a.)(i.) and § 4(a.)(ii.) of the Order dated May 23, 2013 with 30 hours of coursework in residential appraisals, with a testing component, to be pre-approved by the Board Monitoring Liaison, and to be completed within 60 days of the date of the order. All other terms of the order remain in effect. Motion carried unanimously.

DANIEL R. HEFFRON – REQUEST TO RESCIND MOTION

MOTION: Carl Clementi moved, seconded by Linda Steinke, to rescind the February 12, 2014 Motion to accept the surrender of Daniel Heffron's right to automatically renew his credential. Motion carried unanimously.

MOTION: Marla Britton moved, seconded by Linda Steinke, to refer the matter of Daniel Heffron to DLSC for possible violation of a Board order. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

MOTION: Henry Simon moved, seconded by Marla Britton, to issue the Administrative Warning in the matter of 14 APP 019, and to close the case. Motion carried unanimously.

MOTION: Marla Britton moved, seconded by Scott Brunner, to issue the Administrative Warning in the matter of 14 APP 021, and to close the case. Motion carried unanimously.

CASE CLOSINGS

MOTION: Henry Simon moved, seconded by Carl Clementi, to close case 14 APP 011, against J.S.W.T., for no violation (NV). Motion carried unanimously.

MOTION: Marla Britton moved, seconded by Linda Steinke, to close case 14 APP 012, against E.M.V., for prosecutorial discretion (P1). Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Marla Britton moved, seconded by Henry Simon, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

ADJOURNMENT

MOTION: Henry Simon moved, seconded by Carl Clementi, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:04 P.M.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Daniel Agne, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 6/10/14 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting for paperless boards	
3) Name of Board, Committee, Council, Sections:			
4) Meeting Date:	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Remarks from Department Secretary Dave Ross APPEARANCE – Department Secretary Dave Ross	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Sec. Ross would like to give brief remarks and Q&A at upcoming Board meetings: 7/16 Medical Examining Board 7/30 Veterinary Examining Board 8/5 Radiography Examining Board 8/7 Chiropractic Examining Board 8/13 Real Estate Appraisers Board 8/21 Nursing Home Administrators Examining Board 9/11 Physical Therapy Examining Board			
11) Authorization			
Daniel Agne			
Signature of person making this request			Date
Supervisor (if required)			Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Daniel Agne, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 6/5/14 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting for paperless boards									
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board											
4) Meeting Date: 8/13/14	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Executive Order 61									
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:									
10) Describe the issue and action that should be addressed: The Board will be asked to consider the impact of rules on small businesses, pursuant to Executive Order 61											
11) Authorization											
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%; border-bottom: 1px solid black;">Daniel Agne</td> <td style="width: 20%; border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				Daniel Agne		Signature of person making this request	Date	Supervisor (if required)	Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date	
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EXECUTIVE ORDER # 61

Relating to Job Creation and Small Business Expansion

WHEREAS, creating jobs and growing our state's economy is dependent on a vibrant small business sector; and

WHEREAS, small businesses have generated 64% of net new jobs over the past fifteen years and employ over half of all private sector employees; and

WHEREAS, according to recent U.S. Census data, 86% of Wisconsin business employ fewer than 20 workers, and 74% have ten workers or less; and

WHEREAS, small businesses spend 80% more per worker than large employers to comply with government regulations and, according to a recent National Federation of Independent Business survey of Wisconsin employers, 91% said it was impossible to know about, comply with, and understand all of government's regulations; and

WHEREAS, according to the U.S. Small Business Administration, complying with government regulations costs small businesses \$10,585 per worker, which discourages investment and hiring by small businesses; and

WHEREAS, government regulations are regularly cited as one of the top three concerns for small business growth, according to NFIB's Small Business Optimism Index; and

WHEREAS, 2011 Wisconsin Act 46 strengthened Wisconsin's Small Business Regulatory Review Board (Board) empowering small business owners and giving them the ability to judge the economic impact of government regulation; and

WHEREAS, 2011 Wisconsin Act 46 requires state agencies to submit any rule with an economic impact to the Board for review and allows the Board to suggest changes to the agency that will improve compliance and reduce the rule's burden on small businesses; and

WHEREAS, pursuant to Wis. Stat. § 227.30, the Board has the authority to review rules and guidelines of any agency to determine whether any of those rules or guidelines place an unnecessary burden on the ability of small businesses to conduct their affairs; and

WHEREAS, state agencies and the Board should not only be reviewing new rules but collaborating to reform existing rules that hinder job creation and small business expansion and that this effort would help further the state's goal of creating 250,000 jobs by 2015.

NOW THEREFORE, I, SCOTT WALKER, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and laws of this State, specifically Wis. Stat. § 227.10(2m), do hereby:

1. Require all state agencies to review 2011 Wisconsin Act 46 to ensure they are in compliance, ready to assist small business owners, and properly submitting any proposed rules with an economic impact to the Board;
2. Require all state agencies to cooperate with the Board to identify existing rules hindering job creation and small business growth;

3. Require all state agencies to work with the Board to recommend changes to these rules that will both reduce their burden on job creators while continuing to comply with the intent of the statutes that created them;
4. Require all state agencies to work with the Board to identify strategies that will increase compliance with existing rules;
5. Request that the Board engage small business owners and their representative organizations to gather input on any rules hindering job growth;
6. Request that the Board provide a report and analysis of these rules, in a manner similar to Wis. Stat. § 227.30(1), to the Governor's Office of Regulatory Compliance and the agency with the authority to amend the rules, which details the rules they have identified for modification.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done in the City of Eau Claire this twenty-second day of February, in the year two thousand twelve.


SCOTT WALKER
Governor

By the Governor:


DOUGLAS LA FOLLETTE
Secretary of State

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Daniel Agne, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 5/7/2014 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting for paperless boards	
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board			
4) Meeting Date: 8/13/2014	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Review of Appraiser License Renewal Forms and Process	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The Board will review license renewal forms and department processes. Appearance by Jamie Adams, Department Renewal Unit Supervisor			
11) Authorization			
Daniel Agne			
Signature of person making this request			Date
Supervisor (if required)			Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Wisconsin Dept. of Safety & Professional Services
Professional Credential Processing - Renewal Unit
PO Box 8935
Madison, WI 53708-8935
ADDRESS SERVICE REQUESTED

Office: 1400 E Washington Ave
Email: dsps@wi.gov
Phone: 608-266-2112
FAX: 608-251-3036
Web: http://dsps.wi.gov
TRS: 800-947-3529

**State of Wisconsin
Department of Safety and Professional Services**

LICENSED APPRAISER RENEWAL

Credential Renewal Fee Schedule:

due before 12/15/2013

Total Owed: \$195.00
Total Paid: \$0.00
Balance Owed: \$195.00

It is time to renew your credential from the Department of Safety and Professional Services.

- Processing time is approximately 10 working days. Respond by November 29th if you would like to have the new credential prior to the expiration date, and to avoid delays that may occur in the mailing process.
- The fee is determined by the date your renewal is received, NOT by the date of mailing (as indicated by a postmark).
- Please SEE REVERSE SIDE for additional information and requirements for renewal.

Internet renewal is available at <http://dsps.wi.gov> under "Online Services."

- Avoid delays in your renewal due to incomplete or missing information. Renewing online is fast, easy and secure.
- You will need your credential number and PIN that appear on the coupon below to access online renewal.

For paper renewal, please follow the instructions below.

- Name and address information provided to the Department is available for public inspection under Wisconsin law.
- You may substitute a business address as your address of record on file with the Department.
- You may also check the box on the form below to declare that your street address and/or PO Box # not be disclosed on any list of ten or more individuals that the department furnishes to another person per Wis. Stat. § 440.14.
- Fill in the gray boxes on the form below to show the amount paid.
- Please pay by credit card, check or money order made payable to DSPS (Department of Safety and Professional Services).
- Make name and address changes in the white space below your name/address on the renewal form below.

004R9/13CH.440

Detach and return coupon with payment

STATE OF WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Licensed Appraiser

THIS
STUB
MUST
BE
DETACHED
BEFORE
MAILING

CREDENTIAL NO: STATUS:
2153 - 004 ACTIVE

TOTAL DUE: DUE DATE: PIN:
\$195.00 12/14/2013 DPKTTE

AMT PD. \$

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VISA MASTERCARD AMEX DISCOVER

CARD # : _____

EXP. DATE: _____

SIGNATURE: _____

Do not disclose my street address/PO Box # on lists

PLEASE PRINT NAME/ADDRESS
CHANGES IN THE SPACE BELOW



STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES
PO BOX 2974
MILWAUKEE WI 53201-2974

DO NOT WRITE BELOW THIS POINT

00400021530001700000195005

Additional Requirements for Renewal

- Sign and date the **Certificate of Legal Status** statement below.
- Sign and date the **Continuing Education Statement** statement below.
 - Wisconsin law requires each Licensed Appraiser to sign a statement on the application certifying that the Licensed Appraiser has completed the required hours of department-approved continuing education programs or courses during the two years immediately preceding the date on which the application is submitted.
 - If your license was first granted on or after December 15, 2012 (see grant date on the front of the coupon) you only need 14 hours of continuing education.
 - **If you wish to reinstate a lapsed license, you must complete all the continuing education hours that would have been required if the credential had remained in active status.** These hours must include the most recent edition of a 7-hour National USPAP Update Course. Also, once the license has lapsed, you must submit proof of the CE hours.

IMPORTANT NOTICE:

- If you do not renew before December 15, 2013, you may not be qualified to perform appraisals in connection with federally related transactions. In addition, you must refrain from using the appraiser titles identified in sec. 458.055, Stats., and you may not describe or refer to any interest of real estate located in this state by the term "Wisconsin certified", "Wisconsin licensed" or any similar term. You would not be precluded from performing appraisals in connection with "non-federally related transactions", provided you comply with sec. 458.055, Stats. If you fail to renew within five years after license expiration, you may be required to complete additional requirements to restore your credential.
- **Please Note:** Following the December 14, 2013 renewal date, a continuing education audit of Licensed Appraisers, Certified General Appraisers or Certified Residential Appraisers will be conducted for the 2011-2013 biennium to verify compliance with the continuing education requirements in SPS 85.
- 28 hours of approved continuing education must include the 7 Hour USPAP Update course. Completion of the 15-hour USPAP course can be used for qualifying education of general continuing education hours only; it does not satisfy the requirement to complete the 7-hour National USPAP Update Course.
- **AQB Compliance Status Reminder**
On July 1, 2013, the Appraisal Subcommittee incorporated the Appraiser Qualification Board (AQB) certification and licensing standard. This standard is now required for all Wisconsin appraisers. Failure to acquire this standard prohibits you from participating in any federally related transaction. Please contact Shawn Leatherwood at (608) 261-4438 if you have not previously submitted information to DSPS regarding compliance. You may also visit the Appraisal Subcommittee's website at www.asc.gov for more information.

004R9/13CH.440

PLEASE COMPLETE THE FOLLOWING INFORMATION WHICH IS REQUIRED IN ORDER TO RENEW YOUR LICENSE:

Certification of Legal Status (check one, sign and date below) I declare under penalty of law that I am:

- a citizen or national of the United States, or
- a qualified alien or non-immigrant lawfully present in the United States

Certification of Continuing Education (sign and date below)

() I have completed 28 hours of Department-approved continuing education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between December 15, 2011 and December 14, 2013. I have evidence of this which I will furnish to the Department upon request.

OR

() If initial credential was granted on or after December 15, 2012, I have completed 14 hours of Department-approved continuing education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between December 15, 2012 and [redacted] I have evidence of this which I will furnish to the Department upon request.

Date: _____ Signature: _____

Wisconsin Dept. of Safety & Professional Services
Professional Credential Processing - Renewal Unit
PO Box 8935
Madison, WI 53708-8935
ADDRESS SERVICE REQUESTED

Office: 1400 E Washington Ave
Email: dsps@wi.gov
Phone: 608-266-2112
FAX: 608-251-3036
Web: http://dsps.wi.gov
TRS: 800-947-3529

**State of Wisconsin
Department of Safety and Professional Services
CERTIFIED RESIDENTIAL APPRAISER RENEWAL**

Credential Renewal Fee Schedule:

due before 12/15/2013

**Total Owed: \$195.00
Total Paid: \$0.00
Balance Owed: \$195.00**

It is time to renew your credential from the Department of Safety and Professional Services.

- Processing time is approximately 10 working days. Respond by November 29th if you would like to have the new credential prior to the expiration date, and to avoid delays that may occur in the mailing process.
- The fee is determined by the date your renewal is received, NOT by the date of mailing (as indicated by a postmark).
- Please SEE REVERSE SIDE for additional information and requirements for renewal.

Internet renewal is available at <http://dsps.wi.gov> under "Online Services."

- Avoid delays in your renewal due to incomplete or missing information. Renewing online is fast, easy and secure.
- You will need your credential number and PIN that appear on the coupon below to access online renewal.

For paper renewal, please follow the instructions below.

- Name and address information provided to the Department is available for public inspection under Wisconsin law.
- You may substitute a business address as your address of record on file with the Department.
- You may also check the box on the form below to declare that your street address and/or PO Box # not be disclosed on any list of ten or more individuals that the department furnishes to another person per Wis. Stat. § 440.14.
- Fill in the gray boxes on the form below to show the amount paid.
- Please pay by credit card, check or money order made payable to DSPS (Department of Safety and Professional Services).
- Make name and address changes in the white space below your name/address on the renewal form below.

009R9/13CH.440

Detach and return coupon with payment

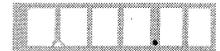
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BE
DETACHED
BEFORE
MAILING

STATE OF WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Certified Residential Appraiser

CREDENTIAL NO: STATUS: TOTAL DUE: DUE DATE: PIN: AMT PD. \$

1923 - 009 ACTIVE \$195.00 12/14/2013 DCPXEE



VISA MASTERCARD AMEX DISCOVER

CARD #: _____

EXP. DATE: _____

SIGNATURE: _____

Do not disclose my street address/PO Box # on lists

PLEASE PRINT NAME/ADDRESS
CHANGES IN THE SPACE BELOW



STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES
PO BOX 2974
MILWAUKEE WI 53201-2974

DO NOT WRITE BELOW THIS POINT

00900019230001700000195005

Additional Requirements for Renewal

- Sign and date the **Certificate of Legal Status** statement below.
- Sign and date the **Continuing Education Statement** statement below.
 - Wisconsin law requires each Licensed Appraiser to sign a statement on the application certifying that the Licensed Appraiser has completed the required hours of department-approved continuing education programs or courses during the two years immediately preceding the date on which the application is submitted.
 - If your license was first granted on or after December 15, 2012 (see grant date on the front of the coupon) you only need 14 hours of continuing education.
 - **If you wish to reinstate a lapsed license, you must complete all the continuing education hours that would have been required if the credential had remained in active status.** These hours must include the most recent edition of a 7-hour National USPAP Update Course. Also, once the license has lapsed, you must submit proof of the CE hours.

IMPORTANT NOTICE:

- If you do not renew before December 15, 2013, you may not be qualified to perform appraisals in connection with federal transactions. In addition, you must refrain from using the appraiser titles identified in sec. 458.055, Stats., and you may not describe any real estate located in this state by the term "Wisconsin certified", "Wisconsin licensed" or any similar term. You would not be precluded from performing appraisals in connection with "non-federally related transactions", provided you comply with sec. 458.055, Stats. If you fail to renew within five years after license expiration, you may be required to complete additional requirements to restore your credential.
- **Please Note:** Following the December 14, 2013 renewal date, a continuing education audit of Licensed Appraisers, Certified General Appraisers or Certified Residential Appraisers will be conducted for the 2011-2013 biennium to verify compliance with the continuing education requirements in SPS 85.
- 28 hours of approved continuing education must include the 7 Hour USPAP Update course. Completion of the 15-hour USPAP course can be used for qualifying education of general continuing education hours only; it does not satisfy the requirement to complete the 7-hour National USPAP Update Course.
- **AQB Compliance Status Reminder**
On July 1, 2013, the Appraisal Subcommittee incorporated the Appraiser Qualification Board (AQB) certification and licensing standard. This standard is now required for all Wisconsin appraisers. Failure to acquire this standard prohibits you from participating in any federally related transaction. Please contact Shawn Leatherwood at (608) 261-4438 if you have not previously submitted information to DSPS regarding compliance. You may also visit the Appraisal Subcommittee's website at www.asc.gov for more information.

009R9/13CH.440

PLEASE COMPLETE THE FOLLOWING INFORMATION WHICH IS REQUIRED IN ORDER TO RENEW YOUR LICENSE:

Certification of Legal Status (check one, sign and date below) I declare under penalty of law that I am:

- a citizen or national of the United States, or
 a qualified alien or non-immigrant lawfully present in the United States

Certification of Continuing Education (sign and date below)

() I have completed 28 hours of Department-approved continuing education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between December 15, 2011 and December 14, 2013. I have evidence of this which I will furnish to the Department upon request.

OR

() If initial credential was granted on or after December 15, 2012, I have completed 14 hours of Department-approved continuing education, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between December 15, 2012 and December 14, 2013. I have evidence of this which I will furnish to the Department upon request. **Failure to complete the continuing education course within the period may be cause for discipline.**

Date: _____ Signature: _____

Wisconsin Dept. of Safety & Professional Services
Professional Credential Processing - Renewal Unit
PO Box 8935
Madison, WI 53708-8935
ADDRESS SERVICE REQUESTED

Office: 1400 E Washington Ave
Email: dsps@wi.gov
Phone: 608-266-2112
FAX: 608-251-3036
Web: http://dsps.wi.gov
TRS: 800-947-3529

**State of Wisconsin
Department of Safety and Professional Services
CERTIFIED GENERAL APPRAISER RENEWAL**

TEMPORARY

Credential Renewal Fee Schedule:

due before 12/15/2013

**Total Owed: \$195.00
Total Paid: \$0.00
Balance Owed: \$195.00**

It is time to renew your credential from the Department of Safety and Professional Services.

- Processing time is approximately 10 working days. Respond by November 29th if you would like to have the new credential prior to the expiration date, and to avoid delays that may occur in the mailing process.
- The fee is determined by the date your renewal is received, NOT by the date of mailing (as indicated by a postmark).
- Please SEE REVERSE SIDE for additional information and requirements for renewal.

Internet renewal is available at <http://dsps.wi.gov> under "Online Services."

- Avoid delays in your renewal due to incomplete or missing information. Renewing online is fast, easy and secure.
- You will need your credential number and PIN that appear on the coupon below to access online renewal.

For paper renewal, please follow the instructions below.

- Name and address information provided to the Department is available for public inspection under Wisconsin law.
- You may substitute a business address as your address of record on file with the Department.
- You may also check the box on the form below to declare that your street address and/or PO Box # not be disclosed on any list of ten or more individuals that the department furnishes to another person per Wis. Stat. § 440.14.
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010R9/13CH.440

Detach and return coupon with payment

STATE OF WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Certified General Appraiser

CREDENTIAL NO: STATUS: TOTAL DUE: DUE DATE: PIN: AMT PD. \$

2028 - 010 ACTIVE \$195.00 12/14/2013 DR73RE

VISA MASTERCARD AMEX DISCOVER

CARD # : _____

EXP. DATE: _____

SIGNATURE: _____

Do not disclose my street address/PO Box # on lists

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES
PO BOX 2974
MILWAUKEE WI 53201-2974

DO NOT WRITE BELOW THIS POINT

01000020280001700000195005

THIS
STUB
MUST
BE
DETACHED
BEFORE
MAILING

PLEASE PRINT NAME/ADDRESS
CHANGES IN THE SPACE BELOW

[Redacted Name and Address]

[REDACTED]

[REDACTED]

[REDACTED]

Additional Requirements for Renewal

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- Sign and date the **Continuing Education Statement** statement below.
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010R9/13CH.440

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 a qualified alien or non-immigrant lawfully present in the United States

Certification of Continuing Education (sign and date below)

() I have completed 28 hours of Department-approved continuing education credits, including at least 7 hours in the Uniform Standards of Professional Appraisal Practice (USPAP), between December 15, 2011 and December 14, 2013. I have evidence of this which I will furnish to the Department upon request.

OR

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Date: _____ Signature: _____

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Daniel Agne, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 6/5/14 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting for paperless boards									
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board											
4) Meeting Date: 8/13/14	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Wisconsin Appraiser Application and Continuing Education Requirements									
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:									
10) Describe the issue and action that should be addressed: Board review of Appraiser Continuing Education discussion on the following pages.											
11) Authorization											
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-bottom: 1px solid black;">Daniel Agne</td> <td style="width: 30%; border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				Daniel Agne		Signature of person making this request	Date	Supervisor (if required)	Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date	
Daniel Agne											
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Supervisor (if required)	Date										
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Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.											

From: Neal Fenochietti [REDACTED]
Sent: Thursday, May 08, 2014 10:34 AM
To: Puster, Carolann - DSPS
Subject: Re: WI Appraiser Qualifications

When an appraiser reinstates, all ce that would have been required if the credential was active, must be complex prior to reinstatement.

[REDACTED]

On May 8, 2014, at 11:09 AM, "Puster, Carolann - DSPS" [REDACTED] wrote:

Hello Neal,

The Wisconsin Real Estate Appraisers Board asked yesterday how the 2015 education requirements might affect re-registration of expired appraiser licenses.

In Wisconsin, if an appraiser credential is expired over 5 years, the applicant must complete 28 hours of approved continuing education to be reinstated. We do not require the full education/degree that is required upon initial application.

Is there any conflict between this and the federal education requirements?

Thank you,

Carolann Puster
Program & Policy Analyst
Division of Professional Credential Processing
Department of Safety and Professional Services

From: Neal Fenochietti [REDACTED]
Sent: Thursday, February 27, 2014 12:22 PM
To: Puster, Carolann - DSPS
Subject: Re: WI Appraiser Qualifications

Correct, as long as you do not place any requirements whatsoever on either, then you needn't do anything.

Sent from Windows Mail

From: Puster, Carolann - DSPS
Sent: Thursday, February 27, 2014 1:10 PM
To: Neal Fenochietti

Hi Neal,

So, in other words, if we wanted to offer Supervisory or Trainee credentials, we must follow AQB minimum requirements.

But since we don't currently offer those, we are not responsible for documenting any requirements that a Licensed/Residential/General Appraiser might have met that would meet the AQB minimum standards for Supervisory/Trainee credentials?

Thanks!
Carolann

From: Neal Fenochietti [REDACTED]
Sent: Thursday, February 27, 2014 11:32 AM
To: Puster, Carolann - DSPS
Subject: Re: WI Appraiser Qualifications

Supervisory and trainee credentials are not required. However, if there are any requirements for either supervisory or trainee then you must implement AQB minimums for both.

If you choose to approve trainees and supervisory appraisers, nothing needs to be indicated on the credential. When a trainee wants to affiliate the State (if they opted to regulate) must verify the qualifications of the supervisory appraiser.

The State may determine how this is done and the mechanisms put in place to assure compliance.

Sent from Windows Mail

From: Puster, Carolann - DSPS
Sent: Thursday, February 27, 2014 12:18 PM
To: [REDACTED]
Cc: Burch, Cynthia L - DSPS, Reader, Kirsten - DSPS

Hi Neal,

Another set of questions has come up regarding Trainee and Supervisory Appraiser

credentials. WI has never issued these – are we required to?
If not, now that Supervisory Appraiser training/experience requirements have increased, is there any need for WI to document such information reported by Licensed/Residential/General Appraisers and somehow indicate on their credential that they meet Supervisory requirements?

We want to be proactive and not discover as a result of audit that we are not appropriately documenting or reporting these items.

We appreciate your assistance with this matter.

Thanks,

Carolann Puster
Program & Policy Analyst
Division of Professional Credential Processing
Department of Safety and Professional Services

From: Burch, Cynthia L - DSPS
Sent: Thursday, February 13, 2014 9:32 AM
To: Hampton, Holly - DSPS; Reader, Kirsten - DSPS; Puster, Carolann - DSPS
Subject: FW: WI Appraiser Qualifications

Hi All,

Neal is unable to meet tomorrow and won't be available next week. He did provide answers (see below in red) to assist us. We will plan to have a teleconference when he is back in the office.

Thank you,

Cindy Burch
Records Management Supervisor - Business & Trades
Division of Professional Credential Processing

From: Neal Fenochietti [REDACTED]
Sent: Thursday, February 13, 2014 9:30 AM
To: Burch, Cynthia L - DSPS
Subject: RE: WI Appraiser Qualifications

I will be out of the office tomorrow and in the field next week. Until we are able to talk, below is a response to your inquiry.

1. If an applicant takes the exam and fails it, what is the re-take waiting period? **There is no waiting period required.**

2. How often is the exam offered and can it be taken at any time? That varies from State to State. Each State contracts a vendor.
3. If an applicant provides education and experience prior to 1/1/15, but the experience is not reviewed until 2015, is the education still valid? The experience may be reviewed after application/examination approval. Some States review work samples after the examination has been successfully completed. Prior to the examination, a State must ensure that the hours, months, and type of experience has been reported.

That is to say, if we don't review or approve the experience until 2015 does the fact that they provided all materials prior to 1/1/15 allow them to be licensed under the current requirement? Yes (see above)

4. If the applicant provides education and experience prior to 1/1/15 and the experience is determined to be non-sufficient, is the education still valid? If the application is denied, the applicant must satisfy the 2015 criteria. If the applicant has not been denied, but the State needs additional information, then the applicant need not comply with the 2015 criteria.

From: Burch, Cynthia L - DSPS [REDACTED]
Sent: Wednesday, February 12, 2014 4:10 PM
To: [REDACTED] Reader, Kirsten - DSPS; Puster, Carolann - DSPS; Hampton, Holly - DSPS
Subject: RE: WI Appraiser Qualifications

Hi Neal,

I received the information below from Holly and we have a few questions that we need to obtain clarification on. We would like to schedule a conference call to discuss the following questions. Is there a date and time that works best for you?

1. If an applicant takes the exam and fails it, what is the re-take waiting period?
2. How often is the exam offered and can it be taken at anytime?
3. If an applicant provides education and experience prior to 1/1/15, but the experience is not reviewed until 2015, is the education still valid? That is to say, if we don't review or approve the experience until 2015 does the fact that they provided all materials prior to 1/1/15 allow them to be licensed under the current requirement?
4. If the applicant provides education and experience prior to 1/1/15 and the experience is determined to be non-sufficient, is the education still valid?

We find the longest waiting period is having the experience reviewed and we anticipate questions from applicants like the ones listed above. Any guidance that you can assist us with that will help us to define policies and procedures is greatly appreciated.

Thank you,

Cindy Burch

*Records Management Supervisor - Business & Trades
Division of Professional Credential Processing*

From: Neal Fenochietti [REDACTED]
Sent: Wednesday, January 29, 2014 8:37 AM
To: Hampton, Holly - DSPS
Subject: Re: WI Appraiser Qualifications

The 2015 Criteria is effective 1-1-2015. In general, anyone that has not completed the three prongs of the qualification criteria: education; experience; and examination by 12-31-2014 must comply with the 2015 criteria.

Therefore, any examination approval issued to applicants prior to 1-1-2015 based on the current criteria must expire on 12-31-2014 and if the applicant failed to take and pass the examination, he or she will have to comply with the 2015 criteria.

The only exception to this is the examination results. The current criteria establishes a 2-year validity period for the exam results. This does not change an examination that is passed prior to 1-1-2015 will continue to be valid for 24 months.

For example, some jurisdictions approve candidates for examination based on an affidavit that the education required by the criteria has been completed. So, if such a candidate were to pass the examination in 2014 and upon reviewing the education prior to actually issuing the credential, the program were to discover that the education was lacking, that applicant would be required to complete the education prior to 1-1-15 and if he or she did not, they would have to complete the education required by the 2015 criteria but their examination would continue to be valid for 24 months.

I hope this helps. If not, give me a call - 202-834-0485. Also, Do you recall where you found your first iteration? It may be a State where the applicant has to pass the examination prior to submitting an application.

(1) As long as the application, education and experience is in by 1/1/2015 it will be accepted without needing to satisfy the new requirements.

Sent from Windows Mail

From: Hampton, Holly - DSPS

Sent: Wednesday, January 29, 2014 9:28 AM

To: 'Neal Fenochietti'

Good morning,

Great, here is goes: I know changes are to go into effect 1/1/15. From my browsing other state's information it seems it's up to the individual state to decide how far in the licensing process the applicant is when pre -2015 information is submitted. A few example situations:

- 1) As long as the application, education and experience is in by 1/1/2015 it will be accepted without needing to satisfy the new requirements.
- 2) All requirements (education, experience, exams) need to be completed by 1/1/15, but a license does not need to be issued.
- 3) An applicant needs to have all requirements completed, the experience needs to be reviewed by the board *and* the license issued by 1/1/15 or the new requirements will need to be met.

Am I right that it's up to the states to decide how exactly to put the new requirements into effect? Or have I not found the right reading materials about the changes?

Any information is much appreciated.

Thanks,

Holly

From: Neal Fenochietti [REDACTED]

Sent: Wednesday, January 29, 2014 7:13 AM

To: Hampton, Holly - DSPS

Subject: Re: WI Appraiser Qualifications

Good morning Holly,

Yes, I am the correct person and I would be happy to answer your questions.

Regards,

Neal Fenochietti,

ASC Policy Manager

Sent from Windows Mail

From: Hampton, Holly - DSPS

Sent: Tuesday, January 28, 2014 2:58 PM

To: [REDACTED]

Hello Neal,

I'm assuming the asc.gov website is current and you are the correct contact for the state of Wisconsin regarding appraisers. My coworker most recently worked with Jenny Tidwell. I have questions about the 1/1/2015 requirements and what steps in the licensing process need to be complete by that date. Please let me know if you are indeed the person to contact who can help me out with this.

Thank you,

Holly Hampton

Division of Professional Credential Processing

Wisconsin Department of Safety and Professional Services

1400 E Washington Ave

Madison, WI 53703

Phone: 608-266-2112

Fax: 608-261-7083

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Daniel Agne, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 6/5/14 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting for paperless boards									
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board											
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7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:									
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11) Authorization											
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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. OCC-2014-0002]

RIN 1557-AD64

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Docket No. R-1486]

RIN 7100-AE15

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 323 and 390

RIN 3064-AE10

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB 2014-0006]

RIN 3170-AA44

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1222

RIN 2590-AA61

Minimum Requirements for Appraisal Management Companies

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

ACTION: Joint notice of proposed rulemaking.

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

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

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

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

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

- *Federal eRulemaking Portal*— "regulations.gov": Go to <http://www.regulations.gov>. Enter "Docket ID OCC-2014-0002" in the Search Box and click "Search". Results can be filtered using the filtering tools on the left side of the screen. Click on "Comment Now" to submit public comments.
- Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.
- *Email:* regs.comments@occ.treas.gov
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.
- *Fax:* (571) 465-4326.

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

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

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

- **Viewing Comments Electronically:** Go to <http://www.regulations.gov>. Enter "Docket ID OCC-2014-0002" in the Search box and click "Search". Comments can be filtered by Agency using the filtering tools on the left side of the screen.
- Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- **Viewing Comments Personally:** You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

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

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* regs.comments@federalreserve.gov. Include the docket number in the subject line of the message.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUPPLEMENTARY INFORMATION:

I. Background

AMC Minimum Requirements

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

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

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

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

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

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

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

Consolidation of FDIC and OTS Rules on Appraisals

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

II. The Proposed Rule

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

¹ Public Law 111-203, 124 Stat. 1376.

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

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

⁴ 12 U.S.C. 3346.

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

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

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

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

⁹ 12 U.S.C. 3353(b).

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

¹¹ 12 U.S.C. 3353(a).

¹² The OTS was abolished on October 19, 2011.

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

Key Definitions

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

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

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

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

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

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

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

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

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

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

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

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

¹⁶ 12 U.S.C. 3350(11).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

²⁹ 12 U.S.C. 3353(c).

³⁰ 12 CFR Part 712.

³¹ 12 U.S.C. 3353(c).

³² *See* 75 FR 44656, 44659 (July 28, 2010)

(Applying similar reasoning to the licensing of mortgage loan originators who were employees of CUSOs under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008).

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

²⁶ 12 U.S.C. 3353(a)(4).

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

Minimum AMC Requirements and Implementation Issues

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

⁴³ 12 U.S.C. 3353(e).

⁴⁴ 12 U.S.C. 3353(d).

⁴⁵ 12 U.S.C. 3353(d).

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

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

Integration of FDIC and OTS Rules on Appraisals

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

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

solicits comment on these proposed changes.

III. Request for Comment on the Proposed Rule

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

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

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

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

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

IV. Regulatory Analysis

Paperwork Reduction Act

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

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

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

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

Frequency of Response: Event generated.

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

Abstract

State Recordkeeping Requirements

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

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

State Reporting Burden

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

AMC Reporting Requirements

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

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

AMC Recordkeeping Requirements

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

Burden Estimates

Total Number of Respondents: 500 AMCs, 50 States.

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

FDIC Burden Total: 1,545 hours.

FHFA Burden Total: 617 hours.

OCC Burden Total: 1,545 hours.

Board Burden Total: 1,545 hours.

Total Burden: 5,252 hours.

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

SUPPLEMENTARY INFORMATION.

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

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

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

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

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

Regulatory Flexibility Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

⁴⁷ See 5 U.S.C. 601 *et seq.*

required registration information and meeting the minimum operational requirements.

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

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

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

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

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

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

⁴⁹ 5 U.S.C. 609.

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

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

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

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

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

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

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

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

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

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

⁵³ See 12 U.S.C. 3338.

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

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

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

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

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

expectations rather than to the proposed rule itself.

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

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

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

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

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

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

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

Certification

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

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

⁵⁷ One of the AMCs did not report its revenue.

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

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

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

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

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

significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995 Determination

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

List of Subjects

12 CFR Part 34

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

12 CFR Part 208

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

12 CFR Part 225

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

12 CFR Part 323

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

12 CFR Part 1026

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

12 CFR Part 1222

Appraisals, Government sponsored enterprises, Mortgages.

Department of the Treasury

Office of the Comptroller of the Currency

Authority and Issuance

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

PART 34—REAL ESTATE LENDING AND APPRAISALS

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

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

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

Subpart H—Appraisal Management Company Minimum Requirements

Sec.

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

§ 34.210 Authority, purpose, and scope.

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

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

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

⁶¹ 5 U.S.C. 601 *et seq.*

⁶² 78 FR 4032 (Jan. 18, 2013).

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

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

§ 34.211 Definitions.

For purposes of this subpart:

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

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

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

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

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

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

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

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

(1) Recruiting, selecting, and retaining appraisers;

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

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

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

(4) Reviewing and verifying the work of appraisers.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 34.212 Appraiser panel.

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

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

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

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

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

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

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

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

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

⁴75 FR 77450 (December 10, 2010).

§ 34.213 Appraisal management company registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 34.214 Requirements for Federally regulated appraisal management companies.

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

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

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

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

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

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

§ 34.215 Registration limitations.

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

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

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

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

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

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

Board of Governors of the Federal Reserve System

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

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

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

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

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

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

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

§ 208.50 Authority, purpose, and scope.

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

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

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

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

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

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

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

Subpart M—Minimum Requirements for Appraisal Management Companies

Sec.

225.190 Authority, purpose, and scope.

225.191 Definitions.

225.192 Appraiser panel.

225.193 Appraisal management company registration.

225.194 Requirements for Federally regulated appraisal management companies.

225.195 Registration limitations.

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

§ 225.190 Authority, purpose, and scope.

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

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

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

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

(2) This subpart:

(i) Identifies which real estate related financial transactions require the services of an appraiser.

(ii) Prescribes which categories of federally related transactions shall be appraised by a State certified appraiser and which by a State licensed appraiser;

(iii) Prescribes minimum standards for the performance of real estate appraisals in connection with federal related transactions under the jurisdiction of the Board;

(iv) Prescribes minimum requirements to be applied by participating States in the registration and supervision of appraisal management companies (AMCs); and

(v) Prescribes minimum requirements to be applied by participating States to report certain information concerning appraisal management companies registered with the States to a national registry of appraisal management companies.

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

§ 225.191 Definitions.

For purposes of this subpart:

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

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

(c) *Appraisal Foundation* means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

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

(i) Provides appraisal management services to creditors or to secondary

mortgage market participants, including affiliates;

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

(iii) Within a given year, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States, as described in § 225.192;

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

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

(1) Recruiting, selecting, and retaining appraisers;

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

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

(4) Reviewing and verifying the work of appraisers.

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

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

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

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

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

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

¹ 75 FR 77450 (December 30, 2010).

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

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

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

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

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

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

§ 225.192 Appraiser panel.

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

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

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

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

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

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

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

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

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

§ 225.193 Appraisal management company registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 225.194 Requirements for Federally regulated appraisal management companies.

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

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

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

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

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

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

§ 225.195 Registration limitations.

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

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

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

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

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

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

Federal Deposit Insurance Corporation Authority and Issuance

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

PART 323—APPRAISALS

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

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

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

Subpart A—Appraisals Generally**§§ 323.1 through 323.7— [Designated as subpart A]**

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

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

- 11. Amend Sections 323.1, 323.3, 323.4, and 323.5 by removing “part” and adding “subpart” in its place in each instance in which it appears.
- 12. Add subpart B to part 323 to read as follows:

Subpart B—Appraisal Management Company Minimum Requirements

Sec.	
323.210	Authority, purpose, and scope.
323.211	Definitions.
323.212	Appraiser panel.
323.213	Appraisal management company registration.
323.214	Requirements for Federally regulated appraisal management companies.
323.215	Registration limitations.
323.216	Information to be presented to the Appraisal Subcommittee by participating States.

§ 323.210 Authority, purpose, and scope.

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

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

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

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

§ 323.211 Definitions.

For purposes of this subpart: (a) *Affiliate* has the meaning provided in 12 U.S.C. 1841.

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

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

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

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

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

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

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

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

(1) Recruiting, selecting, and retaining appraisers;

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

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

(4) Reviewing and verifying the work of appraisers.

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

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

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

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

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

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

¹ 75 FR 77450 (December 10, 2010).

Union Administration, or the Federal Deposit Insurance Corporation.

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

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

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

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

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

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

§ 323.212 Appraiser panel.

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

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

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

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

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

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

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

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

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

§ 323.213 Appraisal management company registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 323.214 Requirements for Federally regulated appraisal management companies.

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

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

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

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

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

(2) Contact the Appraisal Subcommittee for alternative

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

§ 323.215 Registration limitations.

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

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

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

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

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

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

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

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

Authority: 12 U.S.C. 1819.

Subpart A also issued under 12 U.S.C. 1820.

Subpart B also issued under 12 U.S.C. 1818.

Subpart C also issued under 5 U.S.C. 504; 554–557; 12 U.S.C. 1464; 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; 15 U.S.C. 78j; 78o–5; 78u–2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.

Subpart D also issued under 12 U.S.C. 1817; 1818; 1820; 15 U.S.C. 78f.

Subpart E also issued under 12 U.S.C. 1813; 1831m; 15 U.S.C. 78.

Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*

Subpart G also issued under 12 U.S.C. 2810 *et seq.*, 2901 *et seq.*; 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

Subpart I also issued under 12 U.S.C. 1831x.

Subpart J also issued under 12 U.S.C. 1831p–1.

Subpart K also issued under 12 U.S.C. 1817; 1818; 15 U.S.C. 78c; 78l.

Subpart L also issued under 12 U.S.C. 1831p–1.

Subpart M also issued under 12 U.S.C. 1818.

Subpart N also issued under 12 U.S.C. 1821.

Subpart O also issued under 12 U.S.C. 1828.

Subpart P also issued under 12 U.S.C. 1470; 1831e; 1831n; 1831p–1; 3339.

Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.

Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78f; 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.

Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78f; 78m; 78n; 78w.

Subpart U also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78f; 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.

Subpart V also issued under 12 U.S.C. 3201–3208.

Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78f; 78m; 78n; 78p; 78w.

Subpart Y also issued under 12 U.S.C. 1831o.

Subpart Z also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828 (note).

Subpart X—[Removed and Reserved]

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

Bureau of Consumer Financial Protection

Authority and Issuance

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

PART 1026—TRUTH IN LENDING (REGULATION Z)

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

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

Subpart A—General

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

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

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

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

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

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

§ 1026.42 Valuation independence.

* * * * *

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

Federal Housing Finance Agency

Authority and Issuance

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

PART 1222—APPRAISALS

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

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

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

Subpart B—Appraisal Management Company Minimum Requirements

Sec.

1222.20 Authority, purpose, and scope.

1222.21 Definitions.

1222.22 Appraiser panel.

1222.23 Appraisal management company registration.

1222.24 Requirements for Federally regulated appraisal management companies.

1222.25 Registration limitations.

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

§ 1222.20 Authority, purpose, and scope.

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

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

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

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

§ 1222.21 Definitions.

For purposes of this subpart:

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

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

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

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

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

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

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

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

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

(1) Recruiting, selecting, and retaining appraisers;

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

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

(4) Reviewing and verifying the work of appraisers.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1222.22 Appraiser panel.

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

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

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

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

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

¹ 75 FR 77450 (December 10, 2010).

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

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

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

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

§ 1222.23 Appraisal management company registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1222.24 Requirements for Federally regulated appraisal management companies.

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

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

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

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

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

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

§ 1222.25 Registration limitations.

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

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

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

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

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

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

Dated: March 20, 2014.

Thomas J. Curry,
Comptroller of the Currency.

Dated: March 19, 2014.

Robert deV. Frierson,
Secretary of the Board.

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

By order of the Board of Directors,
Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

Dated: March 11, 2014.

Richard Cordray,
Director, Bureau of Consumer Financial Protection.

Dated: March 1, 2014.

Melvin L. Watt,
Director, Federal Housing Finance Agency.

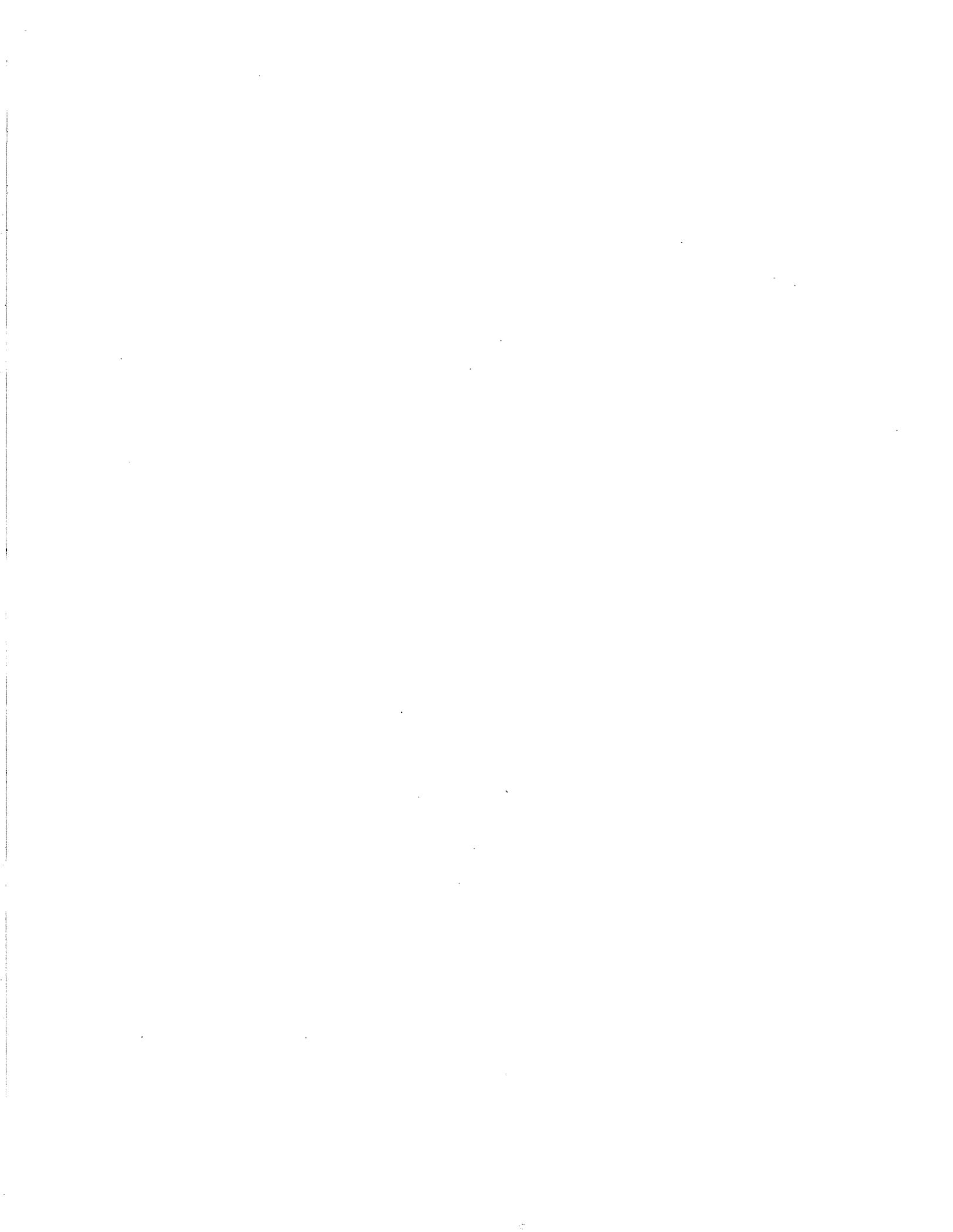
In consultation with:

By the National Credit Union
Administration Board on March 20, 2014.

Gerard Poliquin,
Secretary of the Board.

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

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



BOARD APPEARANCE REQUEST FORM

Appearance Information

Board Name: Real Estate Appraisers Board

Board Meeting Date: 8/13/2014

Person Submitting Agenda Request: Peter Schramm

Person(s) requesting an appearance: Peter Schramm

(NOTE: Contact information is not required for Department staff.)

Reason for Appearance: Research report-CE audits of out-of-state license holders

AppearanceContact Information

(NOTE: If the appearing party is represented by an attorney skip the "AppearanceContact Information" section and complete the "Attorney Contact Information" section.)

Mailing address:

Email address:

Telephone #:

Attorney Contact Information

Attorney Name:

Attorney's mailing address:

Attorney's e-mail address:

Attorney's telephone #:

**State of Wisconsin
Department of Safety and Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Peter Schramm, CE Specialist		2) Date When Request Submitted: 7/28/2014	
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> ▪ 8 business days before the meeting for paperless boards ▪ 14 business days before meeting for all others 	
3) Name of Board, Committee, Council, Section: Real Estate Appraisers Board			
4) Meeting Date: 8/13/2014	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Research Results - Continuing Education Audits of Out-of-State License Holders	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Report findings of research relating to the following motions passed at the 5/7/2014 Real Estate Appraisers Board meeting: <p style="margin-left: 40px;">MOTION: Marla Britton moved, seconded by Linda Steinke, to request that the Department research what percentage of out-of-state persons holding a credential in Wisconsin were audited for Continuing Education compliance in the previous biennium. Motion carried unanimously.</p> <p style="margin-left: 40px;">MOTION: Marla Britton moved, seconded by Henry Simon, to request that the Department research which states bordering Wisconsin are auditing 100% of out-of-state credential holders for Continuing Education compliance. Motion carried unanimously.</p>			
11) Authorization			
Peter Schramm		7/28/2014	
Signature of person making this request		Date	
Jill M. Remy		7/28/2014	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans, Bureau Assistant, On Behalf of Executive Director Tom Ryan		2) Date When Request Submitted: 8/6/2014 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board			
4) Meeting Date: August 13, 2014	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? AARO Fall 2014 Conference, October 17-20, 2014, Washington, DC	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Discussion and consideration of a Board member and DSPS staff to attend the AARO Fall 2014 Conference and to authorize travel.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

AARO Fall 2014 Conference

Tentative Agenda as of 7-31-14

FRIDAY, OCTOBER 17, 2014

9:00—12:00 ASB— Public Meeting at Marriott Metro Center

775 12th Street NW, Washington, D.C. Open meeting to all, but please register on Appraisal Foundation website:

<https://netforum.avectra.com/eWeb/DynamicPage.aspx?Site=TAF&WebCode=EventList&FromSearchControl=Yes>

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*****The AARO Conference will be held at the Westin City Center, 1400 M Street!*****

12:00p – 4:00p REGISTRATION

1:00p –2:45p OPENING SESSION ASC & TAF Updates

Larry Disney-AARO President

Tamora Papas—Ambassador to Washington, D.C.

Appraisal Foundation-David Bunton—TAF UPDATES

ASC-Jim Park - ASC UPDATES

Roberta Ouellette —ASCAC, North Carolina

2:45p - 3:00p BREAK

3:00p – 4:30p APPRAISAL FOUNDATION HOT TOPICS

Wayne Miller—AQB Danitra Kourkounakis, OH

Barry Shea —ASB

Rick Baumgardner —APB

SATURDAY, OCTOBER 18, 2014

8:00a – 4:00p REGISTRATION

7:45a – 8:30a CONT'L BREAKFAST

8:30a – 10:30a Enforcement Hearing Preparation

Tom Lewis—North Carolina

Roberta Ouellette —North Carolina

10:30a – 10:45a BREAK

SATURDAY, cont'd

JOB FUNCTION BREAK-OUTS

10:45a – 11:45p Investigator Training: Land of the Lost—Skip tracing

Thomas “Hal” Humphreys

Danielle Morales, MS

Pursuit Magazine & Find Investigations

10:45a – 11:45p Board Member Workgroup: Board Roles, Consistent Enforcement, Frequent Issues

10:45a – 11:45p Administrator Training: Disaster Planning and Electronic Filing

12:00p – 1:00p LUNCH

On your Own

12:00p - 1:00p BOARD OF DIRECTORS MEETING

Open Meeting

1:15p - 3:30p Technology as Tools for Regulators

Corbin Ball Corbin Ball Associates

Part I The Paperless Professional: How Regulators Can Use the iPad and Tablets to Eliminate Paper in the Field

3:30p – 3:45p BREAK

3:45p - 4:30p Technology as Tools for Regulators

Corbin Ball Corbin Ball Associates

Part II Virtual Meetings

6:00p – 10:00p PRESIDENT’S RECEPTION & SILENT AUCTION

SUNDAY, OCTOBER 19, 2014

7:45a – 8:30a CONT’L BREAKFAST

8:30a - 9:30a COMMITTEE MEETINGS

Policy & Planning - Maria Brown

Nominating - Sherry Bren

Budget and Finance - Dave Campbell

Program – Nikole Avers

9:45a—10:45a ADVISORY COUNCIL MEETINGS

ASC Advisory-Amy McClellan

SUNDAY, cont'd

Qualifications Advisory-Maria Brown

USPAP Advisory -Larry Disney

AMC Advisory Council-Fran Oreto

Appraiser Profession Organizations Advisory Council – Debbie Rudd

10:45a –11:00a BREAK

11:00a – 12:00a ASC SOAP Demonstration and Extranet

Brian Kelly – ASC

Kristi Klamet – ASC

12:00p – 1:00p LUNCH Sponsor/Vendor Demonstration Tables

1:00P – 3:00P An Inside Look a Distance Education, the Alliance for Valuation Education, the AQB CAP program

Magdalene Vasquez—Appraisal Foundation

Emily Onuffer – McKissock

3:00p - 3:15p BREAK

3:15p - 4:00p ANNUAL BUSINESS MEETING

Committee & Advisory Council Reports

NMLS Survey – Tim Doyle or Larry Disney

Nominating Committee Recommendations

Award Presentations & Installation of Officers

Comments by Outgoing President & New President

3:15p - 4:30p BOARD OF DIRECTORS MEETING

MONDAY, OCTOBER 20, 2014

7:45a – 8:30a CONT'L BREAKFAST

8:30a – 10:00a AMC Rules & Appraisal Regulation, Dodd-Frank, Road Blocks to Complaint referrals

Debbie Rudd, Arizona

Bob Parson – CFPB

Robert Witt FHFA

MONDAY, cont'd

Beverlea S. Gardner FDIC

10:00a-10:15a BREAK

10:15a—11:45a Secondary Market & GSE Updates, How the UAD has changed data management, and Road Blocks to Complaint referrals

Robert T. Murphy—Fannie Mae

Jenny Brawley—Freddie Mac

Gerald Kifer or Mr. Kevin Eason — VA

Ada Bohorfoush or Kobe Owusu-Banahene FHA

12:00p – 1:00p LUNCH Sponsor/ Vendor Demonstration Tables

1:15p - 3:00p Auditing AMC's

Fran Oreto, Florida

Tim O'Brien RELS

Beth Buell ServiceLink

Bob Denehy CoreLogic

3:00p—4:00p Statistical Study of AMCs: Panel Sizes, Revenues, Areas of Operation, Most Frequent Disciplinary Items, Non- Appraisal Activities

Peter Christensen – LIA Administrators & Insurance Services

3:30p - 4:00p CLOSING REMARKS

Nikole Avers, New AARO President