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ANNUAL REPORT

# **Appraisal Subcommittee**

of the

**Federal Financial Institutions  
Examination Council**

Presented to the  
United States Congress  
January 31, 1992

Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation  
National Credit Union Administration  
Office of the Comptroller of the Currency  
Office of Thrift Supervision  
Department of Housing and Urban Development

Federal Financial Institutions Examination Council, Appraisal Subcommittee

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January 31, 1992

The Appraisal Subcommittee of the  
Federal Financial Institutions Examination Council  
Washington, D. C. 20006

The President of the Senate  
The Speaker of the House of Representatives

Pursuant to § 1103 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"),<sup>1</sup> I am pleased to submit to Congress the 1991 Annual Report of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC").

**Background**

The ASC was created on August 9, 1989, pursuant to Title XI of FIRREA. Section 1101 of Title XI states that the purpose of Title XI is "to provide that Federal financial interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision." The ASC was established within the Federal Financial Institutions Examination Council ("FFIEC") to provide oversight of the real estate appraisal process as it relates to federally related transactions, as they are defined in § 1121(4) of Title XI.

The ASC is composed of six members, each of whom is designated by the head of their respective agencies. These agencies are the five Federal Financial Institutions Regulatory

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<sup>1</sup>Public Law No. 101-73, 103 Stat. 511 (1989), as amended by Public Law Nos. 102-233 and 102-242, 105 Stat. 1761 and 2236, respectively; 12 U.S.C. §§ 3310, 331-3351.

Agencies ("Agencies")<sup>2</sup> and the Department of Housing and Urban Development. Past and current members of the ASC are listed in Appendix A.

Section 1103 of Title XI sets out the ASC's general responsibilities. The Section authorizes the ASC to:

- o Monitor the requirements established by the States, territories and the District of Columbia ("States") for the certification and licensing of appraisers (the ASC must review each State's compliance with the requirements of Title XI and is authorized by Title XI to take action against non-complying States);
- o Monitor the requirements established by the Agencies and the Resolution Trust Corporation ("RTC") regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of State licensed or State certified appraisers;
- o Maintain a National Registry of State licensed and State certified appraisers qualified to perform appraisals in federally related transactions<sup>3</sup> ("Registry");
- o Monitor and review the practices, procedures, activities and organizational structure of the Appraisal Foundation; and
- o Transmit an annual report to Congress regarding the activities of the ASC during the preceding year.

#### ASC Activities During 1991

During 1991, the ASC implemented its previous year's plan by hiring a permanent staff and became a fully operational agency. Attached at Appendix B are documents summarizing the ASC's financial position for fiscal year 1991 and presenting its budget for fiscal year 1992. In March 1991, the first member of the ASC's permanent staff started work. By the end of the year, eight persons were on board. The staff, as identified in Appendix C, consists of:

- o An Executive Director;
- o An Associate Director for Programs and Policy, with a staff of one policy analyst (another analyst was due to begin work at the beginning of 1992);

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<sup>2</sup>Section 1121(6) of Title XI defines the Agencies as The Board of Governors of the Federal Reserve System ("Board"), the Federal Deposit Insurance Corporation ("FDIC"), the Office of the Comptroller of the Currency ("OCC"), the Office of Thrift Supervision ("OTS"), and the National Credit Union Administration ("NCUA").

<sup>3</sup>Each State is responsible under § 1109 of Title XI for transmitting to the ASC an annual Registry fee of \$25 respecting each qualifying appraiser. These fees can be used by the ASC to maintain the Registry, support its activities under Title XI, to make grants to the Appraisal Foundation and for other stated purposes.

- o A General Counsel and Staff Attorney;
- o An Associate Director for Administration; and
- o A support staff of two.

The ASC believes that, with little more than this core staff, it will be able to carry out fully the requirements of Title XI.

Because of the addition of permanent staff, a search for larger office quarters became necessary in the latter part of 1991. To take advantage of economies of scale, the ASC and the FFIEC decided to move together to new facilities. The ASC has obtained larger quarters and expects to relocate to them during the first half of 1992.

By late Spring 1991, the ASC's meetings changed from weekly working sessions to bi-weekly policy setting meetings with much of the day-to-day activity assumed by the staff. To provide the public with information on how the ASC conducts its business, the ASC published in the Federal Register, on June 21 and July 22, 1991, Rules of Operation and a delegation of authority to the ASC Chairperson. The Rules of Operation largely codified the informal procedures under which the ASC operated since its inception. The Rules described, among other things, the organization of ASC meetings, notice requirements for meetings, quorum requirements and certain practices regarding the disclosure of information. The ASC also delegated to its Chairperson authority regarding matters of internal administration, including prescribing a system of administrative control of funds and reallocating budgetary resources within certain limits. The Rules and the delegation can be found in Appendix D.

Throughout the year, the ASC and its staff continued to participate in meetings with a variety of appraisal industry and other related organizations.

A brief discussion of ASC activities relative to each ASC responsibility under Title XI follows.

**1. Monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility.**

The ASC continued its program of reviewing proposed State legislation, statutes and regulations regarding State appraiser licensing and certification with a view towards providing States with ongoing guidance respecting Title XI compliance. The ASC responded to many letters from State officials and other interested persons and handled many questions and issues directly with the States by telephone. In addition, the ASC sent a letter to each State on June 19, 1991, requesting a package of its most current appraiser laws and regulations. By year-end, the ASC had received this information from most States. This letter is in Appendix E.

In response to written complaints from several members of a State's Appraisal Committee, the ASC, on August 15 and 16, 1991, conducted several, on-site, fact finding interviews. The ASC is currently working with the State to ensure its program complies with Title XI.

To facilitate the ASC's monitoring of individual State appraiser licensing and certification programs, the ASC formulated an overall framework for conducting State field reviews. Prior to initiating a field review, the ASC will require the subject State to respond to a uniform set of preliminary questions. These questions will elicit data from the State about its:

- o Enabling legislation;
- o Board or commission organizational structure and budget;
- o Safeguards to assure the board or commission's independence of decision making;
- o Appraiser recordkeeping system;
- o License and certification categories and appraiser experience and education requirements;
- o Course approval mechanisms;
- o Test provider and test data;
- o Temporary practice and reciprocity procedures;
- o Appraiser user complaint procedures and State follow through; and
- o Program for disciplining appraisers, including the suspension or revocation of licenses and certifications.

In October and November of 1991, the ASC conducted two pilot field reviews. At this early stage in the ASC's monitoring of State implementation of Title XI, these reviews were oriented toward understanding the State Appraiser Regulatory Agency's ("State Agency's") organization, its education and experience thresholds, the administration of its education requirements, the types of licensure, certification and testing requirements, and the availability of temporary practice and reciprocal practice procedures among the States. These pilot reviews benefitted both the State and the ASC by establishing better lines of communication and by clarifying State and ASC duties, responsibilities and expectations. At year-end, the ASC was at work on formal review letters to these States.

As part of its ongoing State monitoring program, the ASC issued four Advisories to the States and other interested persons during 1991, which are in Appendix F. On January 25, 1991, the ASC published Advisory 91-1. The Advisory expressed the ASC's willingness to accept a second classification of certified appraisers -- "certified residential real estate appraiser" -- if individual States determined it was necessary. The Appraiser Qualifications Board of the Appraisal Foundation ("AQB") proposed and adopted appropriate requirements for the new classification, and the ASC subsequently recognized the classification.

On October 3, 1991, the ASC issued Advisory 91-2 respecting discrimination against education course providers based on non-affiliation with certain professional organizations. The ASC advised States to review their internal procedures and to take steps to ensure that all educational course providers are afforded equal treatment respecting course review fees, timeliness of review, approval, and course location requirements.

On October 25, 1991, the ASC published Advisory 91-3 about State Agency temporary practice requirements that may be inconsistent with § 1122(a) of Title XI. The Advisory emphasized that Title XI contemplates the free flow of qualified appraisers across State lines to the greatest possible extent. The ASC requested States to review their proposed and adopted rules, regulations and internal written and unwritten procedures respecting temporary practice to ensure that they do not impose unreasonable restraints on temporary practice or operate to prohibit the temporary practice of appraisers licensed or certified in another State.

The last Advisory, 91-4, was issued by the ASC on December 20, 1991, and discussed recent amendments to Title XI of FIRREA.<sup>4</sup> The amendments generally: (1) extended no later than December 31, 1992, the deadline by which all appraisals in connection with federally related transactions must be performed by State licensed or State certified appraisers; (2) clarified that the ASC cannot set qualifications or experience requirements for the States in licensing real estate appraisers, including a *de minimis* standard; and (3) revised the temporary waiver provisions of Title XI. The Advisory informed States of the existence and extent of the Congressional action and provided guidance regarding the meaning of those amendments and their effects on States and the ASC. In general, the ASC informed the States that the extension was voluntary, *i.e.*, each State could choose to implement its Title XI system before December 31, 1992, and encouraged each State to proceed in its efforts to implement Title XI as soon as reasonably possible. The ASC also asked each State to provide the ASC with written notification as soon as possible of the date when its Title XI system is operative.

On July 25, 1991, the ASC issued a press release about the use of correspondence courses and video and remote television offerings to meet State licensing, certification and continuing education classroom hour standards. See Appendix G. In its release, the ASC recognized and endorsed the AQB's June 25, 1991 Interpretations/Clarifications of the Appraiser Qualifications Criteria. Previously, the AQB only recognized educational courses taught by live instructors in classroom situations. This interpretation for the first time allowed correspondence courses to be used by appraisers, particularly those in rural or remote areas.

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<sup>4</sup>Section 701 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Pub. L. No. 102-233, 105 Stat. 1761, and § 472 of the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. No. 102-242, 105 Stat. 2236.

The ASC also took action in a number of other areas of interest to the States. Consistent with § 1119(a) of Title XI, the ASC, on May 1 and June 28, 1991, published in the Federal Register with FFIEC's concurrence two orders extending until December 31, 1991, the time in which State certified or licensed appraisers must be used to perform appraisals in connection with federally related transactions. See Appendix H. For all but one U.S. jurisdiction, Palau, the ASC made a written finding that each had made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of Title XI.

On May 20, 1991, a memorandum from the ASC was distributed by the Agencies to chief executive officers of regulated financial institutions reminding them of their responsibility under Title XI and Agency rules and regulations not to discriminate in the selection or hiring of real estate appraisers based on an appraiser's membership or lack of membership in particular appraisal organizations or on having certain professional designations. This memorandum is attached as Appendix I. The memorandum specifically requested institution management to "take steps necessary to assure that written policies and practices conform with the . . . requirement." This memorandum was widely distributed to States, appraisers, and appraiser organizations.

On June 6, 1991, the ASC published in the Federal Register its Revised Guidelines Regarding State Certification and Licensing of Appraisers. The Revised Guidelines, which can be found in Appendix J, restated, consolidated and modified proposed Guidelines that were previously published for comment on January 18, 1990. The Revised Guidelines assisted States in establishing effective certification and licensing procedures for real estate appraisers involved in federally related transactions. The Revised Guidelines reflected the general framework that the ASC will use in reviewing State appraiser regulatory programs for compliance with Title XI. For example, the ASC described its overall policies regarding the structure of State Agencies and independence in their decision making, appraiser qualification criteria for licensing and certification, temporary practice and reciprocity, and prohibited discriminatory practices under Title XI.

On June 26, 1991, the ASC issued directly to State Agencies "Questions and Answers" covering many of the most frequently asked questions about Title XI, the ASC, and the Agencies' appraisal regulations.<sup>5</sup> For example, they described the relationships between the ASC, the Appraisal Foundation and the Agencies; described federally related transactions and non-federally related transactions; contrasted temporary practice to reciprocity; and explained certain aspects of the National Registry and the applicability of the Uniform Standards of Professional Appraisal Practice. The "Q&A's" are in Appendix K.

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<sup>5</sup>See 12 CFR Part 225, Subpart H (Board); Part 34, Subpart C (OCC); Part 564 (OTS); Part 323 (FDIC); and Part 722 (NCUA) (1991).

On November 26, 1991, the ASC published in the Federal Register a notice of proposed rulemaking setting out procedures for obtaining temporary waivers under § 1119(b) of Title XI.<sup>6</sup> Appendix L contains a copy of this Notice. Proposed Rules 1102.1 through 1102.7, when adopted, will provide States and other persons with a vehicle to request ASC relief under § 1119(b) and to provide the ASC with credible information that could lead to ASC initiation of § 1119(b) temporary waiver proceedings. The proposed Rules describe the required contents of requests and information submissions, provide meaningful opportunities for public comment, and allow for waiver extensions and terminations. At year-end, the staff was analyzing the public comments received in response to the notice of proposed rulemaking and expects to recommend that the ASC adopt final temporary waiver rules during the first quarter of 1992. The notice of proposed rulemaking also sets out the ASC's policies on how temporary waiver requests and informational submissions will be processed until the proposed rules are adopted in final form. In that regard, the ASC assured the States and other interested persons that it "will accept and consider requests for temporary waiver relief . . . [and] informational submissions respecting the availability of State licensed or certified appraisers in the States."

Also during the last quarter of 1991, the ASC began to develop rules regarding possible ASC actions against States which do not comply with Title XI. Section 1118 of Title XI authorizes the ASC to "disapprove" or "not recognize" appraiser certifications and licenses from States whose appraisal policies, practices or procedures are found to be inconsistent with the Title. In addition, § 1119(c) authorizes the ASC to "take such further action . . . it deems necessary" to follow up State actions against appraisers. During this process, ASC legal staff worked closely with the legal staffs of the Agencies. The ASC expects to publish the rules for public comment in the Federal Register during the first quarter of 1992. The draft rules are in Appendix M.

**2. Monitor the requirements established by the Agencies and the RTC with respect to: (A) appraisal standards for federally related transactions under their jurisdictions, and (B) determinations as to which federally related transactions require the services of a State certified appraiser and which federally related transactions require the services of a State licensed appraiser.**

During 1991, the deliberations over the threshold level at which appraisals will be required by the Agencies continued, with professional appraisal groups arguing for its elimination or reduction and with financial institutions, particularly banks, asking for increases in the amount. In response to the perceived need and for the sake of uniformity of regulation, the OCC, FDIC, RTC and OTS published in the Federal Register on August

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<sup>6</sup>As amended, § 1119(b) generally enables the ASC to waive, on a temporary basis and with the FFIEC's approval, any State certification or licensing requirement on a written finding that there is a scarcity of certified or licensed appraisers leading to substantial delays in the performance of appraisals in connection with federally related transactions.



28, September 17, September 18 and December 31, 1991, respectively, proposed amendments to their respective appraisal rules that, among other things, would increase the threshold amount from \$50,000 to \$100,000.<sup>7</sup> Under the proposals, real estate related transactions of \$100,000 or less would not require the services of a State certified or licensed appraiser under Title XI. The proposals also contained provisions that would redefine the term "real estate" or "real property" to exclude "mineral rights, timber rights, and growing crops," and would exempt from the appraisal requirement any transaction involving a loan insured or guaranteed by an agency of the federal government, e.g., the Federal Housing Administration, the Department of Veteran Affairs and the Farmers Home Administration, if that loan is supported by a current appraisal that meets the standards of the guaranteeing or insuring federal agency.<sup>8</sup>

The ASC will maintain close contact with the Agencies and the RTC to assure that any revisions to the regulations are consistent with Title XI and will monitor any effect of those changes on the timely implementation of Title XI by the States.

**3. Maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions.**

Section 1109 of Title XI requires each State Agency to submit to the ASC, no less than annually: (1) a roster listing individuals who have received a State certification or State license; and (2) a registry fee of not more than \$25 from each individual who performs or seeks to perform appraisals in connection with federally related transactions. During the year, the ASC worked hard to create an easy to use computerized Registry data base in time for the expected December 31, 1991 Title XI implementation date. The ASC accomplished this task. During the last quarter of 1991, the ASC completed the purchase and testing of appropriate computer hardware and specially designed software to implement the Registry fully. The software is designed to enable persons who lack computer experience to use it without becoming confused or frustrated, and the software should not require modification

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<sup>7</sup>The NCUA has not proposed such an increase. On July 5, 1990, the Board published in the Federal Register a final rule amendment that increased its threshold amount to \$100,000. See 12 CFR § 225.63. The Board, on November 26, 1991, however, published in the Federal Register a proposal to reduce the threshold amount to \$50,000. The Board has not yet taken any further action on the proposed reduction.

<sup>8</sup>The OTS did not need to propose this latter provision because its regulations already provide for the use of valuations prepared for such loans. 12 CFR §§ 541.13, 541.17, 545.32 and 563.170 (1990). On January 22, 1992, NCUA published for comment in the Federal Register rule proposals respecting the redefinition of real estate or real property and the insured or guaranteed loan exemption. NCUA, however, did not propose changes to its current \$50,000 threshold amount. 12 CFR § 722.3(a)(1).

by the States, whose computer support for Registry activities ranges from programming support at mainframe data centers to stand-alone personal computer systems.

During December 1991, the ASC prepared and distributed free to each State a packet of items related to the Registry. Included were a diskette containing a software program to facilitate the recording and transmission of Registry data to the ASC; a "User's Guide to the Appraiser Registry System"; and an instructional paper entitled, "Magnetic Tape Specifications for the Appraiser Registry System." In connection with this effort, the ASC issued two Notices to the State Agencies respecting the Registry, which are in Appendix N. This packet will allow the production of uniform rosters, even though the States have diverse automated data processing capabilities.

**4. Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.**

During 1991, the ASC continued its oversight responsibilities of the Appraisal Foundation. The ASC approved two grants to the Foundation in late 1990 for the amounts of \$264,002 and \$649,926, totalling \$913,928, that became final grant documents through the work of ASC staff and HUD administrators during 1991. Under the first grant, Hoffman Associates, a Foundation subcontractor, performed the review and certification of nine proposed appraiser licensing and certification examinations submitted for approval by the States and by private examination providers. Those examinations were approved and were being given in various States for appraiser licensing and certification. The second grant was awarded for the operation of the Foundation's Appraisal Standards and Appraiser Qualifications Boards and, to a limited extent, for the operation of the Foundation's board of trustees. At year-end, the Foundation had drawn down \$646,875<sup>9</sup> from the total available grant amount of \$913,928, leaving an unspent balance of \$267,053.<sup>10</sup>

Responding to the ASC's concerns and perceptions in the appraisal industry about the Foundation's lack of representation of unaffiliated appraisers, the Foundation, in December 1991, adopted amended bylaws and articles of incorporation intended to change significantly the representation of appraisers in the Foundation and on the board of trustees. The bylaws and articles are included in Appendix O. The amended bylaws and articles of incorporation

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<sup>9</sup>In fiscal year 1991, the ASC disbursed a total of \$462,333 in grant funds to the Foundation. The ASC also provided the Foundation with \$184,542 for the last calendar quarter of 1991. This additional amount reflects invoices for October 1991 of \$64,724 and November and December 1991 in the amount of \$119,818. Calendar year 1991 total disbursements to the Foundation were \$646,875.

<sup>10</sup>The ASC has made this balance available to the Foundation during the first calendar quarter of 1992 while it is considering a new Foundation grant request for calendar year 1992.

resulted from months of work by a select committee of the board which was given the task of studying ways to improve representation on the board. On November 7, 1991, the Foundation announced that its board of trustees had adopted, in principle, the Select Committee's restructuring plan developed to broaden Foundation representation. The central components of the restructuring plan, as finally adopted, include:

- o Eliminating membership in the Foundation in favor of sponsorship. Appraisal organizations, organizations with an interest in real estate appraisal and real estate related corporations will have the opportunity to become sponsors of the Foundation;
- o Increasing the overall size of the board of trustees from twenty to approximately thirty;
- o Restructuring the Foundation's dues, which will be on a per capita basis with a maximum amount;
- o Removing the limit on the number of appraisal-related organizations which can appoint trustees; and
- o Increasing the number of at-large trustees (a category which must include at least one unaffiliated appraiser) from two to fourteen. The actual number of seats dedicated to unaffiliated appraisers will be determined by the number of unaffiliated appraisers who become licensed or certified.

During 1991, the ASC reviewed and often commented on the activities of the AQB and Appraisal Standards Board ("ASB"). The AQB met five times, and it:

- o Finished the qualification criteria for residential and general certification classifications;
- o Reviewed and approved nine appraiser examinations;
- o Continued its work on a Job Task Analysis, which defines appraiser tasks supporting the previously developed Examination Content Outline for General Appraisers;
- o Refined and distributed several Interpretations/Clarifications of the appraiser qualification criteria;
- o Established a task force to explore providing an appraiser educational course evaluation and endorsement service to the States; and
- o Began efforts to facilitate reciprocity among the States.

The ASC likewise reviewed and often commented on ASB activities. The ASB also met five times during 1991, and it:

- o Published four Advisory Opinions on, for example, whether the issuance of update appraisal reports are an acceptable appraisal practice, and whether prior sales of appraised property includes transfers in lieu of foreclosure or foreclosure sales;
- o Issued five Statements on Appraisal Standards concerning, for example, review appraisal, discounted cash flow analysis, and retroactive and prospective value estimates;

- o Approved a new publication schedule for the Uniform Standards of Professional Appraisal Practice;
- o Voted to issue a draft Statement and Advisory Opinion for comment regarding reasonable exposure time for a property and the difference between market value and fair value; and
- o Issued two requests for proposals respecting the development of a curriculum guide for teaching the Uniform Standards.

**5. Transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the ASC has been carried out during the preceding year.**

The first such required report was delivered to the Congress on January 31, 1990, covering calendar year 1989. The second such report was delivered to Congress on January 31, 1991, covering calendar year 1990. This report summarizes ASC activities for calendar year 1991.

**6. Other activities of the ASC.**

On October 31 and November 1, 1991, the ASC sponsored the Appraisal Subcommittee State Regulators Conference in Washington, D.C. The Conference's program is in Appendix P. The main goal of the Conference was to discuss and clarify, before the anticipated December 31, 1991 full implementation date of Title XI, a number of important issues that were continuing to be a source of confusion to the States. It also was intended to provide a first-time opportunity for persons with common interests in appraisal regulation to establish lines of communication and to exchange ideas on differing approaches to regulatory issues. The Conference was so well received and attended that the ASC is considering whether to make it an annual event. About 250 persons attended the Conference, reflecting the interests of 49 States, appraisers, professional appraiser organizations and federal agencies. During the Conference, the ASC and State regulators presented information on a variety of topics (such as temporary waivers, Title XI compliance and enforcement, and temporary practice and reciprocity) and the Appraisal Foundation provided the attendees with an update of its activities. Congressman Doug Barnard, Jr., was the Conference's keynote speaker and John Robson, Assistant Secretary of the Treasury, spoke to attendees about their role in the current credit availability situation.

In March 1991, the ASC submitted to Congress a Personal Property Appraisal Study pursuant to § 1122(e) of Title XI. The Study's title page and the table of contents are in Appendix Q. The Study concluded that, while it would be feasible to extend to the personal property appraisal function a simple generic regulatory structure similar to Title XI's regulatory structure for real estate appraisals/appraising, such an extension would not be desirable.

**Future plans of the ASC**

During 1992, the ASC will conduct field monitoring reviews in those States whose systems have been fully implemented, and will continue to perform investigations of complaints as they are received. Between 1992 and 1993, the ASC plans to perform on-site monitoring in all of the States.

The ASC will continue monitoring the activities of the Foundation during 1992. As during 1991, the Foundation will be invited to attend ASC meetings to share information on a regular basis. The ASC will review and evaluate the activities of the Foundation under the grant and will evaluate the results of the changes in organizational structure of the Foundation to insure that they achieve the desired result of making the Foundation a more representative organization.

The ASC will continue to assist the States in their efforts to meet the new January 1, 1993 deadline for full implementation of Title XI. The Temporary Waiver regulations will be in effect and States which anticipate localized shortages will be encouraged to make waiver applications well before the end of the year. In this regard, the ASC may hold a second State Appraisal Regulators Conference in the fall of 1992 to continue the coordination and educational processes initiated during the 1991 Conference.

The ASC believes that most of the systems are in place to insure the successful implementation of Title XI. During this year, we will see most appraisers obtaining licenses and certifications, the National Registry will grow to contain an estimated 50,000 records of appraisers, a significant number of States will receive on-site monitoring visits, and by December 31st, all of the States (except for a few localized areas) will have implemented Title XI fully.

Sincerely,



Fred D. Finke  
Chairman

# Appraisal Subcommittee

1991 Annual Report

*Appendix A*

The members of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council and their terms of service are:

Chair: Fred D. Finke, Deputy Comptroller for Special Supervision, Office of the Comptroller of the Currency; September 1990 to present;

Morris E. (Bud) Carter, Director, Single Family Development Department, Department of Housing and Urban Development; October 1991 to present;

Robert F. Mialovich, Assistant Director, Office of Policy, Division of Supervision, Federal Deposit Insurance Corporation; November 1989 to present;

Diana L. Garmus, Deputy Assistant Director for Corporate Activities, Office of Thrift Supervision; September 1990 to present;

Roger T. Cole, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System; October 1990 to present;

Timothy P. Hornbrook, Director, Department of Supervision, Office of Examination and Insurance, National Credit Union Administration; November 1989 to December 1991;

Mark Holman, Program Advisor, Office of Insured Single Family Housing, Department of Housing and Urban Development; April 1991 to October 1991;

Edwin W. (Ted) Baker, Former Chief, Valuation and Technical Support Branch, Department of Housing and Urban Development; January 1990 to April 1991;

Kevin M. Blakely, Former Deputy Comptroller for Special Supervision, Office of the Comptroller of the Currency; November 1989 to September 1990;

Richard Spillenkothen, Deputy Associate Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve Board; November 1989 to October 1990.

Mary C. Short, Former Deputy Director for Supervisory Programs, Division of Supervision Policy, Office of Thrift Supervision; November 1989 to September 1990;

# Appraisal Subcommittee

1991 Annual Report

*Appendix B*



**APPRAISAL SUBCOMMITTEE**

**Planned vs Actual Expenditures and Obligations  
Fiscal Year 1991**

OPERATING EXPENSES	Planned						ACTUAL FY 1991
	OCT '90 to DEC '90	JAN '91 to MAR '91	APR '91 to JUN '91	JUL '91 to SEPT '91	BUDGET FY 1991		
Personnel Compensation	\$ 5,099	\$ 58,876	\$ 80,894	\$ 123,138	\$ 268,007	\$ 134,430	
Retirement & Insurance	1,377	15,896	21,841	33,247	72,361	39,871	
Travel & Transportation	4,920	1,920	5,420	10,420	22,680	6,960	
Transportation of Things	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1,463	
Rent, Communications & Utilities	44,501	15,264	15,264	15,264	90,293	69,591	
Printing & Reproduction	1,320	1,320	1,320	1,320	5,280	5,933	
Other Services	296,861	166,343	81,183	10,167	554,554	513,603	
Supplies & Materials	300	300	300	7,200	8,100	27,872	
<b>TOTAL Operating Expenses</b>	<b>\$ 354,378</b>	<b>\$ 259,919</b>	<b>\$ 206,222</b>	<b>\$ 200,756</b>	<b>\$ 1,021,275</b>	<b>\$ 799,723</b>	
<b>Appraisal Foundation Grant</b>	<b>\$ 135,000</b>	<b>\$ 135,000</b>	<b>\$ 365,000</b>	<b>\$ 365,000</b>	<b>\$ 1,000,000</b>	<b>\$ 462,333</b>	
<b>Capital Expenditures</b>	<b>\$ -0-</b>	<b>\$ 11,000</b>	<b>\$ -0-</b>	<b>\$ 32,000</b>	<b>\$ 43,000</b>	<b>\$ 5,539</b>	
<b>Accrued Interest</b>	<b>\$ 7,379</b>	<b>\$ 15,972</b>	<b>\$ 26,049</b>	<b>\$ 38,104</b>	<b>\$ 87,504</b>	<b>\$ 38,230</b>	

**APPRAISAL SUBCOMMITTEE**

**PAYBACK SCHEDULE FOR FY 1991 TREASURY ADVANCES**

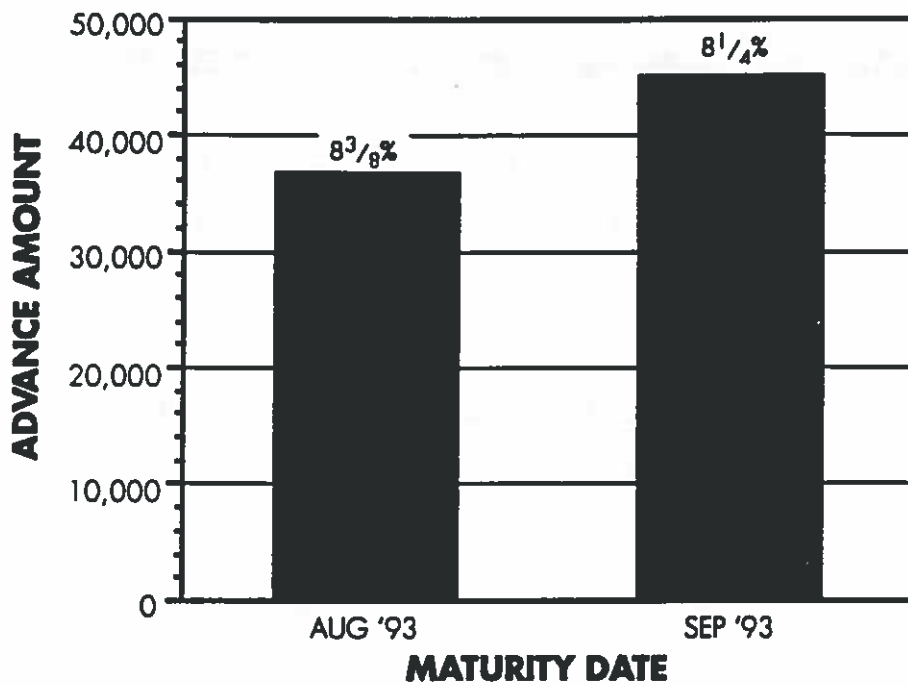
<u>MATURITY DATE</u>	<u>ADVANCE AMOUNT</u>	<u>INTEREST RATE</u>
October, 1993	\$ 16,543.16	8-1/4%
November, 1993	81,032.32	8-1/8%
December, 1993	56,796.00	7-7/8%
January, 1994	21,844.90	7-1/2%
February, 1994	101,269.00	7-3/8%
May, 1994	238,058.82	7-1/4%
June, 1994	56,699.13	7-1/8%
July, 1994	227,649.78	7-1/8%
August, 1994	86,102.95	7-3/8%
September, 1994	207,538.20	7-00%
November, 1994	84,301.02	6-25%
March, 1995	89,759.37	7-3/8%
	=====	
<b>TOTAL OF ADVANCES:</b>	<b>\$1,267,594.65</b>	

**PAYBACK SCHEDULE FOR FY 1990 TREASURY ADVANCES**

August, 1993	\$ 36,881.26	8-3/8%
September, 1993	45,175.00	8-1/4%
	=====	
<b>TOTAL OF ADVANCES:</b>	<b>\$ 82,056.26</b>	

**APPRAISAL SUBCOMMITTEE**

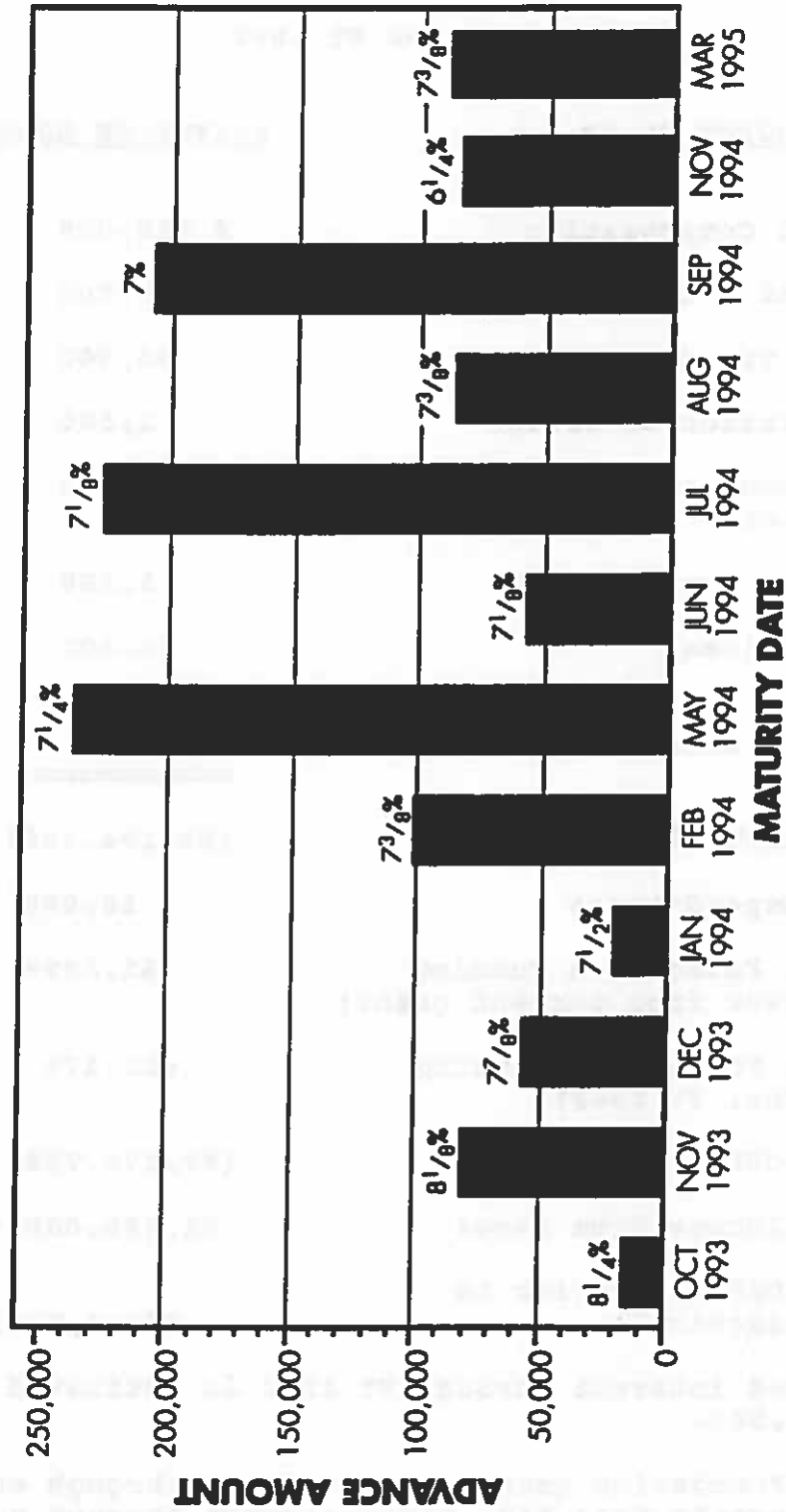
**PAYBACK SCHEDULE FOR FY 1990 TREASURY ADVANCES**



TOTAL OF ADVANCES: \$82,056.26

**APPRAISAL SUBCOMMITTEE**

**PAYBACK SCHEDULE FOR FY 1991 TREASURY ADVANCES**



Total of Advances: \$1,267,595

**EXHIBIT #5**  
**BUDGET FOR FY 1992**

<u>MAJOR OBJECT CLASS</u>	<u>ESTIMATED BUDGET</u>
1. Personnel Compensation	\$ 610,000
2. Retirement & Insurance	165,000
3. Travel & Transportation	33,600
4. Transportation of Things	1,500
5. Rent, Communications, and Utilities	181,200
6. Printing & Reproduction	5,280
7. Other Services	84,400
8. Supplies & Materials	<u>24,000</u>
TOTAL OPERATING EXPENSES:	(\$1,104,980)
---Capital Expenditures	10,000
---Appraisal Foundation Funding (Carry-over from current grant)	451,595*
---Appraisal Foundation Funding (9-months, FY 1992)	611,178
TOTAL OF OBLIGATIONS:	(\$2,177,753)
---Expected Income from Fees:	\$1,250,000**
NET CASH DEFICIT (Prior to debt service):	(\$927,753)

NOTE: Accrued interest through FY 1992 is estimated to be \$202,500.

\* Appraisal Foundation grant and amendment through calendar year 1991 totals \$913,928. Disbursements through September, 1991 equal \$462,333. Balance = \$451,595.

\*\* Assumes 50,000 records in Registry data base in nine month period January 1992 through September, 1992.

# **Appraisal Subcommittee**

1991 Annual Report

*Appendix C*

**PERMANENT APPRAISAL SUBCOMMITTEE STAFF**

Edwin W. (Ted) Baker	Executive Director
Marc L. Weinberg	General Counsel
Ronald W. Peppe	Associate Director for Policy and Programs
Paul N. Romani	Associate Director for Administration
Linda K. Matthias	Appraisal Policy Manager
Vicki A. Ledbetter	Appraisal Policy Manager
Sandra P. White	Staff Attorney
Willa Habersham	Secretary
Lori L. Schuster	Secretary

# Appraisal Subcommittee

1991 Annual Report

*Appendix D*



Applicant, city and state	File No.	MM docket no.
<i>Issue Heading and Applicants</i>		
1. Financial Qualifications, A, D		
2. 307(b), Noncommercial Educational, A, B, C, D, E		
3. Contingent Cooperative Noncommercial Education FM, A, B, C, D, E		
4. Ultimate, A, B, C, D, E		
<b>III</b>		
A. Twinkles Communications; Russell Springs, KY.	BPH-900419MT	91-156
B. Reid D. Rippenor; Russell Springs, KY.	BPH-900423MY	
<i>Issue Heading and Applicants</i>		
1. Comparative, A, B		
2. Ultimate, A, B		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth above. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (telephone 202-452-1422).

W. Jan Gay,

Assistant Chief, Audio Services Division,  
Mass Media Bureau.

[FR Doc. 91-14784 Filed 6-20-91; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

### Appraisal Subcommittee; Adoption of Rules of Operation

(Docket No. AS91-2)

### Appraisal Subcommittee; Adoption of Rules of Operation

**AGENCY:** Appraisal Subcommittee, Federal Financial Institutions Examination Council.

**ACTION:** Adoption of Rules of Operation and a Resolution delegating authority to the Chairman.

**SUMMARY:** This notice announces the Appraisal Subcommittee ("ASC") of the Federal Financial Institutions Examination Council's ("FFIEC") May 29, 1991 adoption of its Rules of Operation. The notice also announces the ASC's June 14, 1991 adoption of a Resolution delegating authority from the ASC to its Chairman with respect to internal administrative matters.

**SUPPLEMENTARY INFORMATION:** Section 1102 (12 U.S.C. 3310) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA")<sup>1</sup> established the ASC and placed it within the FFIEC. The ASC consists of representatives appointed by the heads of each Federal Financial Institutions Regulatory Agency ("FFIRA") and the Department of Housing and Urban Development. The ASC has permanent, professional staff to assist the ASC, to provide advice to the States and to carry out ASC rules, interpretations, policies and directives.

The ASC has several statutory duties under title XI. First, the ASC must monitor the appraisal regulations adopted by the FFIRAs and the Resolution Trust Corporation. Those regulations set out appraisal standards for federally related transactions and define those federally related transactions requiring the services of a State certified or State licensed appraiser. Second, the ASC must monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation. Third, the ASC must monitor each State's certification and licensing programs for real estate appraisers. In that regard, each State with an appraiser certifying and licensing agency is responsible for transmitting to the ASC a roster of these individuals, along with an annual registry fee. The ASC must maintain a national registry of all state certified and licensed appraisers who perform or seek to perform appraisals in federally related transactions. The ASC also must review each State's compliance with the requirements of title XI and is authorized by title XI to take action against non-complying States.<sup>2</sup>

The Rules of Operation largely codify the informal procedures under which the ASC has been operating since its inception. They describe, among other things, the organization of ASC meetings, notice requirements for meetings, quorum requirements, and certain practices regarding the disclosure of information. The

Subcommittee Resolution delegates authority from the ASC to its Chairman regarding matters of internal administration, including prescribing a system of administrative control of funds and reallocating budgetary resources within certain limits.

The ASC believes that the Rules of Operation and the Resolution should facilitate the ASC's and its staffs efforts in implementing, administering and enforcing title XI.

**EFFECTIVE DATE:** June 14, 1991.

**FOR FURTHER INFORMATION CONTACT:** Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel; Appraisal Subcommittee, Federal Financial Institutions Examination Council; 1776 G Street, NW.; suite 850B; Washington, DC 20008; (202) 357-0133.

Dated: June 14, 1991.

Fred D. Finks,

Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council.

### Rules of Operation

#### Article I

#### Nature and Purpose

Section 1.01. *Appraisal Subcommittee described.* The Appraisal Subcommittee, hereinafter referred to as the Subcommittee, is established by title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. 101-73, 103 Stat. 511 (1989); 12 U.S.C. 3310, 3331-3351), hereinafter referred to as the Act.

Section 1.02. *Functions.* The functions of the Subcommittee are set forth in section 1103 of the Act (12 U.S.C. 3332).

Section 1.03. *Definitions.* The words and phrases used herein shall, where applicable, have the definitions set forth in section 1121 of the Act (12 U.S.C. 3350).

Section 1.04. *Authority.* Except as otherwise provided in the Act, all authority for carrying out the functions of the Subcommittee shall reside in the Subcommittee; however, the Subcommittee may delegate any of its authority as it from time to time deems appropriate to Subcommittee members, officers, or employees or as otherwise authorized by law. As provided in section 1105 of the Act (12 U.S.C. 3334), the Chairperson of the Subcommittee shall have authority to appoint such officers and staff as may be necessary to carry out the functions of the Subcommittee.

#### Article II

#### Assessments

Section 2.01. *Assessments.* In accordance with section 1109 of the Act

<sup>1</sup> Public Law No. 101-73, 103 Stat. 511 (1989); 12 U.S.C. 3310, 3331-3351.

<sup>2</sup> See title XI, section 1118, 12 U.S.C. § 3347.

(12 U.S.C. 3338), the Subcommittee shall have the authority to receive an annual fee from each State licensed or certified appraiser eligible to do appraisals in federally related transactions. Any increase in the initial fee, which shall be not more than \$25 per annum, is subject to the approval of the Federal Financial Institutions Examination Council (the Council). The statutory maximum fee is \$50 per annum.

### Article III

#### Members of the Subcommittee

**Section 3.01. Members.** The members of the Subcommittee shall be those persons described in section 1102 of the Act (12 U.S.C. 3310) and, pursuant to 12 U.S.C. 1708(e)(2), the Secretary (or designee) of the Department of Housing and Urban Development.

**Section 3.02. General Powers.** The affairs, business and property of the Subcommittee shall be managed by the Chairperson of the Subcommittee pursuant to the Subcommittee's direction and the Subcommittee's powers shall include those set forth in section 1106 of the Act (12 U.S.C. 3335).

**Section 3.03. Compensation and Expenses of Members.** Each member shall serve on the Subcommittee without compensation other than that received from their respective employing Federal agency; but each member shall be entitled to an advance or reimbursement for reasonable expenses in carrying out their official duties as a member. Such advance or reimbursement shall be made only upon written request accompanied by adequate documentation of such expenses.

**Section 3.04. Chairperson of the Subcommittee.** (a) The Council shall elect a Chairperson of the Subcommittee. The term of office of the Chairperson shall be for a two (2) year term. Section 1104(a) (12 U.S.C. 3333(a)). The Chairperson shall carry out all duties required by the Act and these Rules and shall perform such other duties as from time to time may be assigned by the Subcommittee.

(b) The Subcommittee shall designate from time to time one of its members to act on behalf of the Subcommittee in the absence or incapacity of the Chairperson. The Subcommittee expects that the member designated will be the member whose agency follows that of the Chairperson in the listing in section 1121(6) the Act (12 U.S.C. 3350(6)).

**Section 3.05. Member Vacating Position in Respective Federal Financial Institutions Regulatory Agency.** A person shall remain a member of the Subcommittee until (a) that person resigns, (b) is no longer employed by the

designating agency, or (c) the agency head designates a replacement. If the vacating member is Chairperson of the Subcommittee, a succeeding Chairperson shall be selected by the Council under section 1104(a) of the Act (12 U.S.C. 3333(a)).

**Section 3.06. Organization of Subcommittee Meetings.** (a) The Chairperson of the Subcommittee shall preside at Subcommittee meetings. In his or her absence, whether or not he or she has designated another to attend the meeting pursuant to section 3.11 of these Rules, the member designated under section 3.04(b) shall preside at such Subcommittee meeting.

(b) The Secretary, or in the absence of the Secretary, any person designated by the Chairperson, shall draft and transmit the minutes of the meeting to each member. The Executive Director is appointed to serve as Secretary, and shall be responsible for recording the minutes, including the full text of each resolution voted on by the Subcommittee and the substance of each action voted on by the Subcommittee as well as the vote. The Secretary will also be responsible for certifying or attesting to true copies, minutes, or other documents stating that actions were in fact taken by the Subcommittee. The Secretary will also be responsible for maintaining and preserving at a single place, available for inspection at reasonable times by any member of the Subcommittee or any person designated by any member, the complete minutes of the proceedings of the Subcommittee. The Executive Director may delegate the ministerial duties of Secretary to Subcommittee staff.

(c) Regular meetings of the Subcommittee shall be held in Washington, DC, at a location designated by the Chairperson, or in such other place as the Subcommittee may designate. Special meetings shall be held in such place and at such location as designated by the calling party or parties.

(d) Regular meetings of the Subcommittee shall be held at least monthly at the call of the Chairperson. Special meetings shall be held as provided in section 3.07(b) below.

**Section 3.07. Notice of Meetings.** (a) The Secretary shall send a notice of each regular meeting to each Subcommittee member at least five (5) days prior to the date the regular meeting is to be held, or shall cause such notice to be delivered by hand at least five (5) days prior to the date of the regular meeting is to be held. Delivery by facsimile will be considered the equivalent of hand delivery. Every

regular meeting notice shall specify at least the place, date and hour of the meeting.

(b) The Chairperson or any four (4) or more members may call a special meeting by giving one business day oral, written or facsimile notice to each member and the Secretary. Said notice shall inform the members at least of the place, date and hour of the meeting and of the nature of the business to be conducted at the meeting.

(c) A waiver of any meeting notice signed by a member shall be the equivalent of timely giving to and receipt by that member of notice. A member's attendance at any meeting shall constitute waiver of notice of that meeting unless the member attends solely for the purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

**Section 3.08. Quorum, Manner of Acting and Adjournment.** (a) At any regular or special meeting, the presence of a majority of the members of the Subcommittee shall constitute a quorum for the transaction of business. For the purpose of the preceding sentence, an alternate will count only if he/she has been so designated in writing by the head of the respective agency. The acts voted by a majority of its members present at such meeting shall be the acts of the Subcommittee. A member who is present at a meeting but who abstains from voting on any matter shall be counted for purposes of determining whether a quorum is present, whether that member withdraws from or remains in the meeting during such vote. A majority of the members present at any meeting, whether or not there is a quorum present, may adjourn the meeting. In transacting the business of the Subcommittee, each member shall be entitled to only one vote.

(b) No item shall be voted upon by the Subcommittee except (1) where notice that the item will be on the agenda of a regular meeting has been given pursuant to section 3.09(a) of these Rules, (2) where written notice that the item will be on the agenda of any meeting is delivered to each member at least two (2) full business days prior to the date of such meeting, or (3) upon the unanimous consent of all members of the Subcommittee.

**Section 3.09. Agenda of Subcommittee Meetings.** (a) The agenda for meetings shall be determined by the Chairperson in consultation with the Secretary, or where appropriate by the four (4) or more members calling the meeting; provided that the Chairperson shall include any item on the agenda when

he/she receives a request in writing from any single member at least three (3) full business days prior to the date of the meeting.

(b) Any member may request during any regular or special meeting that an item be placed on the agenda of that meeting. The item shall be placed on the agenda for discussion but only if a majority of those present approve the request.

**Section 3.10. Certain Interest of the Members.** No person serving as an officer or employee of the Subcommittee shall be deemed to have an interest adverse to the interest of the Subcommittee solely because that person is employed by a Federal agency and assigned to the Subcommittee. No Subcommittee member shall be required to abstain from voting on any matter solely because the Federal agency employing that member is or will be affected. No act of the Subcommittee shall be subject to challenge nor is any way be affected by participation of said member in such vote.

**Section 3.11. Proxies.** A Subcommittee member may from time to time designate an alternate from his or her agency to carry out the member's duties on the Subcommittee. Such alternate may act in all matters as member of the Subcommittee, except that he/she may not act as the presiding officer of a Subcommittee meeting or vote unless so authorized in writing by the agency head.

**Section 3.12. Use of Conference Call Communications Equipment.** Any or all members of the Subcommittee may participate in a meeting through the use of conference call telephone or similar communications equipment, by means of which all persons participating in the meeting can simultaneously speak and hear each other. Any member so participating in the meeting shall be deemed to be present for all purposes. Actions taken by the Subcommittee at meetings where one or more members participate through the use of such equipment, including the votes of each member, shall be recorded in the minutes of the meeting.

**Section 3.13. Transaction of Business by Circulation of Written Items.** Any other provision of these Rules to the contrary notwithstanding, business may be conducted by the Subcommittee by the circulation of written items to all members where all members participate in consideration of each written item and where all members approve the action proposed. The refusal by any member to vote on any written item within a reasonable time, or in the alternative, a set time agreed to by a majority of all of the members, shall be

considered a negative vote by that refusing member. The disposition of each written item circulated for vote, including the vote of each member, shall be recorded in the minutes of the Subcommittee.

#### Article IV

##### Officers and Employees

**Section 4.01. Permanent Officers and Employees.** (a) Except as otherwise specifically directed by the Subcommittee, its Chairperson shall have power to appoint and terminate such officers and employees as from time to time deemed necessary to carry out the Subcommittee's mission. Position descriptions will be written for all permanent personnel employed by the Subcommittee. Procedures relative to the appointment, termination, and compensation practices of the Subcommittee shall be consistent with the appointment and compensation practices of the Council or in accord with the policies set forth in Title 5, United States Code and applicable OPM rules and regulations.

(b) The Subcommittee may adopt from time to time such rules or regulations governing the conduct of officers and employees as it deems appropriate.

**Section 4.02. Officers and Employees Detailed From Federal Agencies.** Any person in the employ of any Federal agency detailed to the Subcommittee shall be considered an officer or employee of the Subcommittee. Such persons shall be assigned to and serve the Subcommittee for a designated, but renewable, period of time and salaries and benefits received by such officers or employees shall be paid to them by the agency from which that officer or employee is assigned. All salaries and benefits received by such officers and employees shall be reimbursed by the Subcommittee to detailee's home agency. Each Federal agency will apply its own rules, regulations, and policies to the circumstances under which officers or employees assigned to the Subcommittee may resume their duties at that agency upon termination of assignment to the Subcommittee.

#### Article V

##### Fiscal year

**Section 5.01. Fiscal Year.** The Subcommittee budget shall be prepared on the basis of a fiscal year ending on September 30th.

#### Article VI

##### Amendments

**Section 6.01. Amendments.** Unless specifically stated herein, any of these Rules may be altered, amended or

repealed, or new Rules may be adopted at any meeting, regular or special, of the Subcommittee by the affirmative act of a majority of all members of the Subcommittee, so long as such action is consistent with the requirements of applicable law. Amendments to these Rules shall not be given retroactive effect.

#### Article VII

##### Public Information

**Section 7.01. Disclosure of Information.** All matters pertaining to the disclosure of information by the Subcommittee shall be governed by applicable law and such resolutions, orders, rules and regulations that may be adopted by the Subcommittee.

**Section 7.02. Public Statements and Statements to the Press.** No written statements shall be made to the press expressing the Subcommittee's policy or descriptive of its action except as authorized pursuant to the procedures to be adopted by the Subcommittee. Such statements shall be issued, when authorized and approved, through the office of the Executive Director as delegated by the Chairperson. Where an individual member is responding on issues before the Subcommittee, that member should use best efforts to alert other members and the Secretary concerning the substance of the response as soon as possible.

**Section 7.03. Disclaimer.** Except when otherwise authorized by the Subcommittee, individual members, officers and employees shall include in written statements and oral presentations the following disclaimer of responsibility:

The Appraisal Subcommittee, as a matter of policy, disclaims responsibility for any private publication or statement by any of its members, officers, or employees. The views expressed herein are those of the author and do not necessarily reflect the views of the Subcommittee.

The wording of the disclaimer may vary with the circumstances so long as its substance is clearly communicated.

Any written statement or oral presentation which reflects Subcommittee positions must set forth those positions accurately and, if it contains differences with Subcommittee positions, it should clearly state that such positions are solely those of the author.

#### Article VIII

##### Advisory Committee

**Section 8.01. Appointment of an Advisory Group.** Subject to the Federal

Advisory Committee Act (5 U.S.C. App. 1-14) and to such procedures as it may from time to time adopt, the Subcommittee may establish nonvoting advisory group(s). Such advisory group(s) shall meet with the Subcommittee on a schedule determined by the Subcommittee. Members of the advisory group(s) may receive from the Subcommittee an allowance, in an amount to be determined by the Subcommittee, for necessary expenses incurred in attending such meetings.

#### Article IX

##### Administrative Support

**Section 9.01. Service of Administrative Support.** (a) To insure that the orderly administration of the affairs of the Subcommittee is accomplished, administrative support functions shall be provided by the permanent staff of the Subcommittee with assistance, when needed, from staff of the Federal agencies that are members of the Subcommittee.

(b) The Chairperson shall have the authority to negotiate and execute agreements regarding personnel, payroll, grant administration, procurement, and other services, consistent with directives of the Subcommittee. In executing this authority, the Chairperson shall be authorized to obtain such administrative support services as he/she deems necessary.

#### Article X

##### Report to Congress

**Section 10.01. Annual Report to Congress.** In accordance with section 1103 of the Act (12 U.S.C. 3332), the Subcommittee shall prepare an annual report to the Congress not later than January 31 of each year. The report will cover the activities of the Subcommittee during the preceding year.

**Section 10.02. Preparation of Reports.** The Executive Director or other party as designated by the Subcommittee is authorized and directed to cause to be prepared in a timely fashion, for review and approval by the Subcommittee, the annual report and such other documents concerning the activities or decisions or recommendations of the Subcommittee as is required by law or requested by the Congress or any other party.

#### Article XI

##### Conduct and Responsibilities

**Section 11.01. Ethics Provision.** The members of the Subcommittee and its officers and employees shall be required to abide by a code of ethics, consistent with applicable law, that will be

formulated and adopted by the Subcommittee.

#### Resolution

**Whereas.** The responsibilities of the Chairperson of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council include the internal administration of the Appraisal Subcommittee:

**Now, therefore, be it resolved.** That the Chairperson is hereby delegated the administrative responsibilities set forth below.

##### The Chairperson.

(1) Prescribes a system of administrative control of funds.

(2) Approves and/or delegates the approval of the distribution of budgetary resources in the form of a Budget Execution Plan and may reallocate resources among object classes so long as: (a) Aggregate obligations do not exceed the annual budget approved by the Subcommittee; (b) no single reallocation action exceeds \$100,000 without the consent of the Subcommittee; and (c) every reallocation action of \$100,000 or less shall be reported to the Subcommittee at the Subcommittee meeting following the reallocation action.

(3) Delegates authority for the issuance of allotments and the incurrence of obligations.

The Chairperson is delegated authority, subject to the Rules of Operation, concerning personnel actions, including the appointment, promotion, and removal of personnel, other than officers, employed by the Subcommittee.

The Chairperson is delegated authority over all other matters of internal administration not listed above unless such authority is specifically retained by the Subcommittee or specifically delegated to another party.

Finally, the Chairperson is authorized to delegate to members, officers, or employees of the Subcommittee, as the Chairperson may deem necessary, any of the above authorities delegated to the Chairperson with the exception of the authority to supervise the position of Executive Director.

**Be it further resolved.** That the Chairperson shall perform duties under this authority only when serving as the Subcommittee's Chairperson. In other instances, (i.e., serving as the Subcommittee's member) the interest of his/her home agency is represented. The Subcommittee may act in any matter delegated herein upon its own motion or

at the request of the Chairperson.

[FR Doc. 91-14860 Filed 6-20-91; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.803 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

**Agreement No.:** 202-010678-048.

**Title:** South Europe/U.S.A. Freight Conference.

**Parties:** Achille Lauro, Compagnie Generale Maritime, Compania Trasatlantica Espanola, S.A. Evergreen Marine Corporation (Taiwan Ltd. Farrell Lines, Inc. "Italia" di Navigazione, S.p.A. Jugolinija, Jugoceanija, Lykes Lines, A.P. Moller-Maersk Line, Nedlloyd Lines, Sea-Land Service, Inc. P&O Containers Limited, Zim Israel Navigation Company, Ltd.

**Synopsis:** The proposed amendment would modify the Agreement's independent action (IA) provisions by permitting the parties, upon 10 days notice, to increase, as well as decrease, the amount of brokerage and freight forwarder compensation. However, this authority will expire on November 1, 1991. It would also permit a party to adopt the IA of another party on time-volume rated items and allow cargo carried by the adopting members to be counted towards the common shipper's volume commitment.

By Order of the Federal Maritime Commission.

Dated: June 17, 1991.

Joseph C. Polking

Secretary.

[FR Doc. 91-14775 Filed 6-20-91; 8:45 am]

BILLING CODE 6720-01-25

Docket No. 89-500, RM-8970) Number of Petitions Received: 1.

**Subject:** Amendment of Part 15 of the Commission's Rules to Permit Cordless Telephone Operation on Offset Frequencies. (GEN Docket No. 89-826) Number of Petitions Received: 2.

**Subject:** Evaluation of the Syndication and Financial Interest Rules. (MM Docket No. 90-162) Number of Petitions Received: 7.

**Subject:** Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services. (GEN Docket No. 90-217) Number of Petitions Received: 5.

Federal Communications Commission.

William F. Catton,

*Acting Secretary.*

[FR Doc. 91-17338 Filed 7-19-91; 8:45 am]

BILLING CODE 4713-01-M

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. A891-3]

**Appraisal Subcommittee; Amendments to Chairperson's Delegation of Authority**

**AGENCY:** Appraisal Subcommittee, Federal Financial Institutions Examination Council.

**ACTION:** Amendment to resolution delegating authority to the Chairperson.

**SUMMARY:** This notice announces that the Appraisal Subcommittee ("ASC") of the Federal Financial Institutions Examination Council ("FFIEC"), on July 10, 1991, amended its June 14, 1991 Resolution, which, among other things, delegated to the ASC Chairperson or his/her designee authority to reallocate resources within the ASC's annual budget.<sup>1</sup> The amendment clarifies the delegated authority by changing and adding new dollar parameters.

**EFFECTIVE DATE:** July 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel; Appraisal Subcommittee, Federal Financial Institutions Examination Council; 1776 G Street, NW.; suite 850B; Washington, DC 20006; (202) 357-0133.

**SUPPLEMENTARY INFORMATION:** Section 1102 (12 U.S.C. 3310) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA")<sup>2</sup> established the ASC and

placed it within the FFIEC. Under title XI, the ASC must: (1) Monitor the Federal Financial Institutions Regulatory Agencies<sup>3</sup> and Resolution Trust Corporation's appraisal regulations; (2) monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation; (3) monitor State real estate appraiser certification and licensing programs; (4) maintain a national registry of State certified and licensed appraisers; and (5) review State compliance with title XI and take action against non-complying States.<sup>4</sup>

The amendment changes only paragraph two of the Resolution respecting the authority of the Chairperson or his/her designee to reallocate resources among object classes. More specifically, each reallocation exceeding \$25,000 must be approved by the ASC, and each reallocation of \$25,000 or less must be reported to the ASC monthly. In addition, an aggregate of no more than \$50,000 in reallocations can be made without ASC approval between ASC meetings.

The ASC finds that the amendment should provide the ASC and its staff with an appropriate measure of financial flexibility to meet the needs of developing and administering the new, evolving title XI regulatory program. The ASC further finds that this agency action: (1) Is "a rule of agency organization, procedure, or practice" that does not require notice and public procedure under 5 U.S.C. 553(b); and (2) is not a "substantive rule" requiring at least 30 days between its publication in the Federal Register and effective date under 5 U.S.C. § 553(d).

For the reasons above, paragraph two of the June 14, 1991 Resolution is amended as follows:

### Resolution

• • • • •

The Chairperson.

• • • • •

(2) Approves and/or delegates the approval of the distribution of budgetary resources in the form of a Budget Execution Plan and may reallocate resources among object classes so long as:

(a) \* \* \*

<sup>1</sup> The Federal Financial Institution Regulatory Agencies are: the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration. Title XI, 1121(b); 12 U.S.C. 3330(b).

<sup>4</sup> See title XI, 1121, 12 U.S.C. 3347.

(b) No single reallocation action exceeds \$25,000 without the consent of the Subcommittee;

(c) An aggregate of not more than \$50,000 in reallocations is allowed without Subcommittee approval between meetings of the Subcommittee; and

(d) Every reallocation of \$25,000 or less shall be reported to the Subcommittee monthly.

Dated: July 17, 1991.

Fred D. Finks,

*Chairman.*

[FR Doc. 91-17376 Filed 7-19-91; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL RESERVE SYSTEM

### Agency Forms Under Review

July 15, 1991

#### Background

Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

#### FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Office—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3206, Washington, DC 20503 (202-395-7340).

#### Final Approval Under OMB Delegated Authority of the Extension With Revisions, of the Following Report

1. **Report Title:** Report of Transaction Accounts, Other Deposits and Vault Cash; Reports of Certain Eurocurrency Transactions; and Advance Reports of Deposits

**Agency form number:** FR 2900; FR 2950/51; and FR 2000/2001

**OMB Docket Number:** 7100-0087  
**Frequency:** Weekly, Quarterly, Daily—dependent upon report

**Reporters:** Depository institutions  
**Annual reporting hours:** 1,863,459

<sup>1</sup> 56 FR 28561 (June 21, 1991).

<sup>2</sup> Public Law No. 101-73, 103 Stat. 511 (1989); 12 U.S.C. 3310, 3331-3335.

# **Appraisal Subcommittee**

1991 Annual Report

*Appendix E*

Federal Financial Institutions Examination Council, Appraisal Subcommittee

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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

June 19, 1991

Carol Whelan  
Licensing Examiner  
Board of Certified RE Appraisers  
P.O. Box D  
Juneau, AK 99811-0800

Dear Ms. Whelan:

In preparation for the January 1, 1992 nationwide implementation of the licensing and certification requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI), the Appraisal Subcommittee wishes to be certain that it has a complete and accurate file of your jurisdiction's legislation and implementing rules and regulations. The Subcommittee requests that by September 30, 1991, you forward to us one copy of each of the following documents.

- (1) The enabling statute which establishes the framework of your regulatory scheme, including all amendments to date;
- (2) Rules and/or regulations that have been adopted or are currently proposed to implement your statutory scheme;
- (3) Administrative policies and/or procedures under which your regulatory program is or will be operating; and
- (4) Any other documents which you believe will better describe your system.

Your cooperation in this effort is appreciated. We look forward to working with you as we enter the final phase of the implementation of Title XI. Feel free to contact the Subcommittee staff if you have any questions we can help you with.

Sincerely Yours



Edwin W. Baker  
Executive Director

# Appraisal Subcommittee

1991 Annual Report

*Appendix F*





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1776 G Street, NW, Suite 850B • Washington, DC 20006

## Press Release

For immediate release

January 25, 1991

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council has sent the attached advisory on state criteria for certification and licensing of real estate appraisers to interested parties.

The Subcommittee expresses its willingness to accept a second classification of certified appraisers, "certified residential real estate appraiser", if individual states determine that it is necessary.

The Subcommittee expresses its continuing preference for a single class of certification, but subject to the following conditions, it is prepared to accept two classes of certification. First, the Appraiser Qualifications Board (AQB) of the Appraisal Foundation must develop and approve a classification standard for "certified residential real

- over -

estate appraiser", second, an examination for this classification must be developed which may or may not be the same as that given for "certified general" appraisers. This examination must be validated by the AQB. Finally, the Appraisal Subcommittee must review and not disapprove the classification standard. The Subcommittee is advised that the AQB has issued exposure drafts of the existing classification standards with changes in titles of designations and a new "certified residential real estate appraiser" classification. The Subcommittee has not reviewed or commented on these changes at this time.

The Subcommittee advises the States which believe that it is necessary to create a new classification in order to appraise expensive or complex 1-4 family homes that procedures must be developed to assure that users of appraisal services are able to readily distinguish between the two classes of certified appraisers. This advisory is not intended to affect state decisions concerning "licensed appraisers".

# # #

January 25, 1991

THE APPRAISAL SUBCOMMITTEE OF THE FEDERAL  
FINANCIAL INSTITUTIONS EXAMINATION COUNCIL  
ADVISORY 91-1

GUIDELINES REGARDING TWO CLASSES OF CERTIFICATION

Introduction

This advisory modifies the Guidelines Regarding State Certification and Licensing of Appraisers issued for comment by the Appraisal Subcommittee (hereinafter "Subcommittee") of the Federal Financial Institutions Examination Council on January 18, 1990. Section 1118 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347) (FIRREA) charges the Subcommittee with the responsibility to monitor the certification and licensing policies, practices or procedures of each State.

Section 1116(a) of FIRREA (12 U.S.C. 3345) defines "State certified real estate appraiser" to mean any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. The language of Title XI has previously

been interpreted by the Subcommittee to indicate that States should have a single standard for certified appraisers, and that specialization in appraisal practice (residential, commercial, office, etc.) could be achieved after achieving certification. The Subcommittee has offered guidance to states based upon this interpretation, i.e. "the Subcommittee encourages the State to adopt just a 'State licensed' and a 'State certified' category consistent with Title XI". The Subcommittee suggested in advisory 90-1 that it believed the AQB classification entitled "residential real property appraiser"<sup>1</sup> was appropriate for licensed appraisers and the AQB classification "general real property appraiser"<sup>2</sup> was appropriate for certified appraiser. The Subcommittee still believes that in most States this interpretation is appropriate.

It has been brought to the attention of the Subcommittee, and of the AQB, that in a few states with a significant quantity of very high priced single family homes this interpretation of the Title XI<sup>3</sup> requirement that a State certified appraiser be used to perform appraisals for all real estate transactions having a

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<sup>1</sup>The AQB has proposed renaming this classification. In an exposure draft dated December 20, 1991 the proposed name for this classification is "State licensed real property appraiser".

<sup>2</sup>The AQB has proposed to rename this classification to "certified general real property appraiser".

<sup>3</sup>PL 101-73,130 Stat. 183[1989]:12 U.S.C. 3331-3351, specifically Sections 1113 paragraphs (1) and (2) (12 U.S.C. 3342)

value in excess of \$1,000,000 and for all complex 1-4 unit properties will disqualify a number of residential appraisers from performing appraisals for which they are uniquely qualified. Upon discussion with the AQB, the Subcommittee has been advised that this issue is of serious enough concern to the AQB that they have issued exposure drafts of appraiser qualification criteria (for) "certified residential" (new), "State licensed" (renamed from "residential real property appraiser"), and "certified general" (renamed from "general real property appraiser") classifications of real estate appraisers. While the Subcommittee has not reviewed or approved the exposure drafts, and cannot at this time endorse the proposed criteria, we are prepared to accept, from those states who believe it necessary, categories for "certified residential" as well as "certified general" real estate appraisers.

#### Qualifications Criteria

In order for a state to have two classifications of certified appraisers, it will be necessary that the AQB develop final qualification criteria for "certified residential" appraisers, and for an examination to be developed for "certified residential" appraisers, which may or may not be the same as that given for "certified general" appraisers. In addition, that examination must be validated by the AQB. Finally, all of the

above shall be reviewed by the Subcommittee to insure that the requirements of Section 1116(a) of FIRREA are met.

### Implementation

In addition, it will be necessary for the state to develop and implement a procedure to insure that "certified residential" appraisers be so distinguished from "certified general" appraisers that a user of appraisal services for a federally related transaction, following the requirements of FIRREA and the appraisal regulations of the federal financial institutions regulatory agencies<sup>4</sup> or the Resolution Trust Corporation, will be assured that an appraiser holds the appropriate type of certification. The Subcommittee is concerned that confusion may arise among affected institutions concerning this issue and will be extremely cautious in reviewing state schemes for implementing such provisions.

### State Reviews

States which have received letters commenting upon legislation enacted or proposed should re-evaluate those comments in light of this advisory and the need in the state for appraisers to perform

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<sup>4</sup>The federal financial institutions regulatory agencies are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

appraisals on 1-4 family properties valued in excess of \$1,000,000 or otherwise defined as complex. The Subcommittee continues to remind the States that in exercising its oversight responsibilities, it will review a State's overall regulatory scheme to determine compliance with Title XI.

**Federal Financial Institutions Examination Council, Appraisal Subcommittee**

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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

**Press Release**

For immediate release

October 3, 1991

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council has sent the attached advisory on discrimination in educational offerings.

The Subcommittee advises State Appraiser Regulatory Agencies to review their internal procedures and take steps to insure all educational course providers are afforded equal treatment respecting course review fees, timeliness of review, approval, and course location requirements.

# # #



October 3, 1991

The Appraisal Subcommittee of the Federal  
Financial Institutions Examination Council

**Advisory 91-2**

Discrimination against educational course providers based on non-affiliation with certain professional organizations

Complaints and comments have been received by the Appraisal Subcommittee indicating that some State Appraiser Regulatory Agencies are providing preferential treatment to certain educational course providers at the expense of discriminating against other providers.

The Subcommittee has learned that some State Agencies routinely: (1) charge a course review fee to private course providers while not charging such a fee to certain professional appraiser organizations, and (2) delay approval of private school appraisal courses while rapidly approving those of professional appraiser organizations. Moreover, non-affiliated proprietary schools, operating on a national scale, are frequently forced by Agencies to maintain and use fixed school room locations, while certain professional organizations are allowed to teach courses at non-fixed commercial sites, such as hotels, motels, and office locations.

State Appraiser Regulatory Agencies should review their internal procedures and take steps to insure all educational course providers are afforded equal treatment respecting course review fees, timeliness of review, approval, and course location requirements.



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## **Press Release**

**For Immediate Release**

**October 25, 1991**

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council has adopted Advisory 91-03 respecting State Appraiser Regulatory Agency temporary practice requirements under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The Advisory stresses that State Agencies should should take appropriate steps to ensure the free flow of qualified appraisers across State lines to the greatest possible extent under Title XI.

If we can be of further assistance, please contact us at (202) 357-0133.

**# # #**

October 25, 1991

**The Appraisal Subcommittee of the  
Federal Financial Institutions Examination Council  
Advisory 91-03**

**State requirements for temporary practice**

Complaints, comments and requests for guidance have been received by the Appraisal Subcommittee ("ASC") regarding State Appraiser Regulatory Agency temporary practice requirements that may be inconsistent with the letter and spirit of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Section 1122(a) of Title XI requires a State Agency to recognize an appraiser's certificate or license issued by another State if: (1) the property to be appraised is part of a Federally related transaction; (2) the appraiser's business is temporary; and (3) the appraiser registers in the State of temporary practice. The section clearly contemplates the free flow of qualified appraisers across State lines to the greatest practicable extent.

The ASC has consistently encouraged the States to adopt statutes, rules, regulations, and procedures concerning temporary practice that are not overly restrictive. See, e.g., the ASC's Revised Guidelines at 56 F.R. 26088 (June 6, 1991). In that regard, the ASC believes that a State Agency: (1) should allow temporary practice even though the other State has differing requirements for licensing and certification; (2) should not put in place time consuming and complicated temporary practice registration procedures; and (3) should not have temporary practice registration fees that in all likelihood substantially exceed the

State's administrative costs relating to temporary practice. While a State may collect a fee for temporary practice registration, that fee is expected to be reasonable in relation to a State's actual costs of administering a temporary practice program.

State Agencies should review their proposed and adopted rules, regulations and internal written and unwritten procedures relating to temporary practice to ensure that they do not impose unreasonable restraints on temporary practice or operate to prohibit the temporary practice of appraisers licensed or certified in another State. The ASC believes that those rules, regulations and procedures should have a simple design and should focus solely on concluding whether the person registering for temporary practice holds a currently valid license or certification in another State.

If we can be of further assistance, please contact us at (202) 357-0133.



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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

## Press Release

For Immediate Release

December 20, 1991

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") today issued Advisory 91-4 notifying State Appraiser Regulatory Agencies and other interested persons about the recent amendments to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

These amendments, among other things: (1) extend to December 31, 1992, the deadline by which "all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of . . . Title [XI];" (2) revise the temporary waiver provisions of Title XI; and (3) clarify that the ASC shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a *de minimis* standard and that recommendations of the Subcommittee shall not be binding on the States.

The Advisory focused on the changed deadline for full Title XI implementation. The ASC said that a State may require the use of State licensed and State certified appraisers at any time prior to January 1, 1993. The ASC further noted that once a State system is operative, Title XI's requirements are triggered, including: the submission to the ASC of a roster of State certified and licensed appraisers; the collection and submission to the ASC of federal registry fees from licensed and certified appraisers (the ASC is prepared to

receive rosters and fees after January 1, 1992. Payment of the fee is required for licensed and certified appraisers and placement of an appraiser's name on the National Registry will not be made until the fee is remitted); and ASC monitoring of State compliance with Title XI. The ASC requested written notification from each State as soon as possible of the date that its Title XI system is or will be operative. Finally, the ASC encouraged States to proceed in their efforts to implement Title XI as soon as reasonably possible.

For further information, please contact the ASC at (202) 357-0133.

# # #

December 20, 1991

**The Appraisal Subcommittee of the Federal Financial  
Institutions Examination Council**

**Advisory No. 91-4**

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") is issuing this Advisory to notify State Appraiser Regulatory Agencies and other interested persons about the recent amendments to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.<sup>1</sup>

Section 1119(a)(1) of Title XI has been amended by striking the date, "July 1, 1991," and inserting "December 31, 1992." The amended Section now states that: "Not later than December 31, 1992, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this Title."

A State may take advantage of this extension without obtaining the approval of the ASC or any other Federal entity. Each State that implements its appraiser regulatory system prior to December 31, 1992, should advise the ASC of the date its system is effective. Certain requirements of Title XI must be put into effect by that date. Those requirements, among other things, include: the submission to the ASC of a roster of State certified and licensed

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<sup>1</sup>Section 701 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and § 472 of the Federal Deposit Insurance Corporation Improvement Act of 1991. The President signed the Acts into law respectively on December 12 and 19, 1991.

appraisers and the collection and submission to the ASC of federal registry fees from licensed and certified appraisers. (The ASC is prepared to receive those items after January 1, 1992.) Payment of the fee is required for licensed and certified appraisers and placement of an appraiser's name on the National Registry will not be made until the fee is remitted. ASC monitoring of State compliance with Title XI remains in effect and no change has been made. The ASC anticipates that the federal financial institutions regulatory agencies will be notifying lenders within their respective regulatory jurisdictions about how the new Title XI amendments may affect them.

The ASC requests written notification from each State, as soon as possible, of the date when its Title XI system is operative. States also should take steps to inform appraisers within the State and other interested persons and institutions of the State's Title XI implementation plans.

States should proceed in their efforts to implement Title XI as soon as reasonably possible. All States must fully implement Title XI by the December 31, 1992 deadline.

The temporary waiver provisions of Title XI also were revised. As amended, § 1119(b) of Title XI authorizes the ASC to waive requirements for licensing and certification when "there is a scarcity of certified or licensed appraisers to perform appraisals in federally related transactions in a State or in any geographical political subdivision of a State, leading to significant delays in the performance of such appraisals." Previously, the Section did not contain a reference to "any geographical political subdivision of a State" and delays had to be "inordinate."



The ASC believes that the need for many waiver requests is now eliminated. Temporary waiver relief, however, remains statutorily available (in particular, for those States that decide to go forward in implementing their Title XI systems), and the ASC will continue to receive and process temporary waiver requests as appropriate. Those requests will be handled in the manner discussed in the ASC recent notice of proposed rulemaking regarding temporary waiver procedures. See 56 F.R. 59899 (November 26, 1991). Persons wishing to comment on these proposed rules should take into consideration the new Title XI amendments.

Finally, paragraph (e) was added to § 1116. The paragraph codifies and clarifies previously existing law. The new paragraph generally provides that the ASC shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a *de minimis* standard, and that recommendations of the ASC shall not be binding on the States. The ASC will continue to evaluate each State's system for regulating appraisers in its entirety.

# **Appraisal Subcommittee**

1991 Annual Report

*Appendix G*



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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

## **Press Release**

For Immediate Release

July 25, 1991

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council recognizes and endorses the Appraiser Qualifications Board of the Appraisal Foundation's June 25, 1991 Interpretations/Clarifications of the Appraiser Qualification Criteria, which -- subject to certain conditions -- will allow the use of correspondence courses and video and remote TV educational offerings to meet licensing, certification and continuing education classroom hour standards.

The Interpretation states:

Correspondence courses and video and remote TV educational offerings may be acceptable to meet the classroom hour requirement providing each course or offering is approved by the state certification/licensing authority and meets the following conditions:

The course or offering has been presented by an accredited (Commission on Colleges or a regional accreditation association) college or university which offers correspondence or similar offerings other disciplines;

An individual successfully completes a written examination administered at a location by an official approved by the college or university; and

The content (i.e., subject matter was appraisal related) and length (equivalent to a minimum of 15 classroom hours) of the course or offering must meet the requirement for real estate appraisal-related courses established by the Appraiser Qualifications Board.

The Appraisal Subcommittee supports efforts to provide the broadest possible availability of qualified appraisal instruction for the mutual benefit of practitioners, users and consumers of appraisal services.

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# **Appraisal Subcommittee**

1991 Annual Report

*Appendix H*



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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

## Press Release

For immediate release

April 26, 1991

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council, with the approval of the Council, has sent to the Federal Register for publication the attached notice extending from July 1 to December 31, 1991, the effective date when federally regulated depository institutions must use State certified or licensed appraisers for appraisals in connection with most real estate related financial transactions pursuant to Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ["FIRREA"] and the rules and regulations thereunder.

This six-month extension is authorized by Title XI upon a finding that a State has made substantial progress toward implementing Title XI appraiser qualification standards. The Subcommittee has made this finding as to every State and the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

The purpose of this one-time extension is to facilitate an orderly, nationwide implementation of the requirement for certification and licensing of appraisers in all federally related transactions no later than December 31, 1991. FIRREA was enacted

(over)

on August 9, 1989. Almost two and one-half years should be an adequate period of time for the States to comply with Title XI. Any further waiver of its requirements as to the use of certified or licensed appraisers must be based on a showing of "scarcity" of qualified appraisers "leading to inordinate delays" in the performance of appraisals in a particular State.

Today's announcement does not affect the implementation or operation of any State's laws or procedures, and it is expected that individual States will begin certifying and licensing appraisers as soon as possible. The Subcommittee commends those States whose appraiser certification and licensing programs become fully operational before January 1, 1992, and encourages the earliest possible use of State certified and licensed appraisers.

# # #

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL  
APPRAISAL SUBCOMMITTEE

Extension of Deadline for Use of Certified or Licensed  
Appraisers in Federally Related Transactions

AGENCY: Federal Financial Institutions Examination Council

SUBAGENCY: Appraisal Subcommittee

ACTION: Notice Extending Effective Date

SUMMARY: Notice is hereby given that the Appraisal Subcommittee ["ASC"], with the approval of the Federal Financial Institutions Examination Council ["FFIEC"], ordered the extension until December 31, 1991, of the effective date for use of certified or licensed appraisers for all appraisals performed in connection with federally related transactions under Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ["FIRREA"].<sup>1</sup> This extension is effective in 54 of the ASC's 57 jurisdictions.

DATES: This action is effective on [insert date of publication in the Federal Register].

ADDRESSES: Copies of this notice are available upon request to the Appraisal Subcommittee, Federal Financial Institutions Examination Council, 1776 G Street, N.W., Suite 850B, Washington, D.C. 20006.

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<sup>1</sup> Public Law No. 101-73, 103 Stat. 183 (1989); 12 U.S.C. 3310, 3331-3351.



FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel to the Appraisal Subcommittee, at the address given above; telephone (202) 357-0133.

SUPPLEMENTARY INFORMATION: Title XI of FIRREA provides for the adoption and implementation by the various States of standards and procedures for the certification and licensing of appraisers. The ASC is required to monitor these State appraiser certification and licensing programs. Federally regulated depository institutions are to use these appraisers in federally related real estate transactions. However, the ASC is authorized in section 1119(a)(2) (12 U.S.C. 3348(a)(2)) to extend from July 1, 1991, to December 31, 1991, the effective date for using certified or licensed appraisers in connection with federally related transactions. That authority is premised upon "a written finding that a state has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title."

During the more than eighteen months since enactment of FIRREA, the ASC has closely monitored the development of appraiser qualification standards in the various states and other jurisdictions subject to Title XI. This effort has included the careful review of State legislative and regulatory proposals designed to implement Title XI's requirements, as well as the providing of comments, suggestions, guidance and direction in this regard, both general and specific, oral and written. The ASC, however, has not received any formal communications from American Samoa and Palau. In addition, the ASC has learned that the Northern Mariana Islands are only in the initial phases of preparing legislation. Therefore, the ASC at this time has no basis to extend the effective date from July 1, 1991, for these three jurisdictions.

On the basis of this extended and ongoing review, the ASC hereby finds that each State, the District of Columbia, Puerto Rico, Guam and the Virgin Islands have made substantial progress toward establishing an appraiser certification and licensing system in conformity with Title XI. Statutes have been or are being enacted as required by Title XI.<sup>2</sup> The ASC commends each of these jurisdictions and encourages each to implement its system before the end of the extension period. Moreover, the ASC encourages lenders to use appraisers certified or licensed by these systems as soon as possible.

The ASC further finds that such an extension forwards Congress's intention to implement Title XI's new regulatory scheme with minimal disruption and confusion at the state and Federal levels. The ASC recognizes that less than two years have passed since Title XI was adopted on August 9, 1989, and, while the States and other jurisdictions have made significant progress, they have had relatively little time to create from scratch an appraiser licensing and certification system. Many tasks are involved in that effort, including an analysis and determination of Title XI's requirements, proposing and adopting legislation, creating valid testing and qualification standards, establishing agencies to administer the various aspects of the regulatory program, and coordinating these and other tasks with the ASC, other Federal agencies and entities, and various industry groups. By extending Title XI's effective date for use of certified and licensed appraisers in federally related transactions until December 31, 1991, the ASC fully anticipates that, on January 1, 1992, all aspects of a nationwide, comprehensive and

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<sup>2</sup>The ASC requests that the States and other jurisdictions continue to facilitate the orderly implementation of the Title XI regulatory program by promptly forwarding to the ASC staff all pertinent proposed and enacted legislation.

Communications Commission, Low Power Television Window Filing, c/o Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th floor, room 153-2713, Pittsburgh, PA 15259-0001, Attn: Wholesale Lockbox Shift Supervisor.

It was also announced that hand-carried or couriered applications could be delivered daily at the above location during normal business hours and until the close of business (5 p.m.) on Friday, May 3, 1991. This office, however, is also used by the Mellon Bank for the receipt of other Mass Media Bureau application filings and is, for that purpose, open for business twenty-four hours a day. To afford all Mass Media Bureau applicants comparable treatment and avoid any unnecessary filing scheduling difficulties, the Commission will accept as timely filed all hand-carried or couriered low power television and television translator applications submitted at the above Mellon Bank location at anytime daily during the window period, up through 11:59 p.m. on Friday, May 3, 1991.

For further information concerning the filing window, contact Keith A. Larson or Molly Fitzgerald, Low Power Television Branch, Mass Media Bureau at Telephone No. (202) 632-3894.

Federal Communications Commission,

Donna R. Searcy,

Secretary.

[FR Doc. 91-10232 Filed 4-30-91; 8:45 am]

BILLING CODE 6712-01-M

#### FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

##### Appraisal Subcommittee; Extension of Deadline for Use of Certified or Licensed Appraisers in Federally Related Transactions

**AGENCY:** Federal Financial Institutions Examination Council.

**SUBAGENCY:** Appraisal Subcommittee.

**ACTION:** Notice extending effective date.

**SUMMARY:** Notice is hereby given that the Appraisal Subcommittee ("ASC"), with the approval of the Federal Financial Institutions Examination Council ("FFIEC"), ordered the extension until December 31, 1991, of the effective date for use of certified or licensed appraisers for all appraisals performed in connection with federally related transactions under title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989

("FIRREA").<sup>1</sup> This extension is effective in 54 of the ASC's 57 jurisdictions. **DATE:** This action is effective on May 1, 1991.

**ADDRESSES:** Copies of this notice are available upon request to the Appraisal Subcommittee, Federal Financial Institutions Examination Council, 1778 G Street NW., suite 850B, Washington, DC 20008.

**FOR FURTHER INFORMATION CONTACT:** Marc L. Weinberg, General Counsel to the Appraisal Subcommittee, at the address given above; telephones (202) 357-0133.

**SUPPLEMENTARY INFORMATION:** Title XI of FIRREA provides for the adoption and implementation by the various States of standards and procedures for the certification and licensing of appraisers. The ASC is required to monitor these State appraiser certification and licensing programs. Federally regulated depository institutions are to use these appraisers in federally related real estate transactions. However, the ASC is authorized in section 1119(a)(2) (12 U.S.C. 3348(a)(2)) to extend from July 1, 1991, to December 31, 1991, the effective date for using certified or licensed appraisers in connection with federally related transactions. That authority is premised upon "a written finding that a state has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title."

During the more than eighteen months since enactment of FIRREA, the ASC has closely monitored the development of appraiser qualification standards in the various states and other jurisdictions subject to title XI. This effort has included the careful review of State legislative and regulatory proposals designed to implement title XI's requirements, as well as the providing of comments, suggestions, guidance and direction in this regard, both general and specific, oral and written. The ASC, however, has not received any formal communications from American Samoa and Palau. In addition, the ASC has learned that the Northern Mariana Islands are only in the initial phases of preparing legislation. Therefore, the ASC at this time has no basis to extend the effective date from July 1, 1991, for these three jurisdictions.

On the basis of this extended and ongoing review, the ASC hereby finds that each State, the District of Columbia, Puerto Rico, Guam and the Virgin Islands have made substantial progress

toward establishing an appraiser certification and licensing system in conformity with title XI. Statutes have been or are being enacted as required by title XI.<sup>2</sup> The ASC commends each of these jurisdictions and encourages each to implement its system before the end of the extension period. Moreover, the ASC encourages lenders to use appraisers certified or licensed by these systems as soon as possible.

The ASC further finds that such an extension forwards Congress's intention to implement title XI's new regulatory scheme with minimal disruption and confusion at the state and Federal levels. The ASC recognizes that less than two years have passed since title XI was adopted on August 9, 1989, and, while the States and other jurisdictions have made significant progress, they have had relatively little time to create from scratch an appraiser licensing and certification system. Many tasks are involved in that effort, including an analysis and determination of title XI's requirements, proposing and adopting legislation, creating valid testing and qualification standards, establishing agencies to administer the various aspects of the regulatory program, and coordinating these and other tasks with the ASC, other Federal agencies and entities, and various industry groups. By extending title XI's effective date for use of certified and licensed appraisers in federally related transactions until December 31, 1991, the ASC fully anticipates that, on January 1, 1992, all aspects of a nationwide, comprehensive and uniform real estate appraiser regulatory system will be in place, as contemplated by Congress when it adopted title XI.

For these reasons, the ASC, with the approval of the FFIEC, hereby extends to December 31, 1991, the deadline for use of certified or licensed appraisers in federally related transactions, pursuant to its authority in section 119(a)(2) of FIRREA (12 U.S.C. 3348(a)(2)), in all fifty States and in the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

By order of the ASC, with the approval of the FFIEC.

Dated at Washington, DC, this 23th day of April, 1991.

<sup>2</sup> The ASC requests that the States and other jurisdictions continue to facilitate the orderly implementation of the title XI regulatory program by promptly forwarding to the ASC staff all pertinent proposed and enacted legislation.

<sup>1</sup> Public Law No. 101-73, 103 Stat. 183 (1989); 12 U.S.C. 3310, 3371-3371.

management agency's compliance with nondiscrimination regulations. The survey is administered by FEMA program personnel to State and territorial governments receiving Federal financial assistance from FEMA through the Comprehensive Cooperative Agreement. Areas covered in the survey include administrative procedure, training, construction, and planning. The results of the survey will be used to provide technical assistance to accomplish voluntary compliance and will be a basis for budgetary recommendations to the Director, FEMA.

*Type of respondents:* State and local governments.

*Estimate of total annual reporting and recordkeeping burden:* 138 hours.

*Number of respondents:* 55.

*Estimated average burden hours per response:* 1.5 hours to complete the survey, and 1 hour for recordkeeping burden.

*Frequency of response:* Annually.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Office, Linda Borrer (202) 646-2824, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Clearance Officer at the above address; and to Gary Waxman (202) 395-7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Dated: June 21, 1991.

Gail L. Kercheval,

*Acting Director Office of Administrative Support.*

[FR Doc. 91-15442 Filed 6-27-91; 8:45 am]

BILLING CODE 6710-01-M

#### Arkansas; Amendment to Notice of a Major Disaster Declaration

[FEMA-907-DR]

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Arkansas (FEMA-907-DR), dated May 30, 1991, and related determinations.

**DATED:** June 12, 1991.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

**NOTICE:** The notice of a major disaster for the State of Arkansas, dated May 30, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 30, 1991:

The counties of Fulton, Lafayette, Scott, and Van Buren for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

[FR Doc. 91-15440 Filed 6-27-91; 8:45 am]

BILLING CODE 6710-02-M

#### Mississippi; Amendment to Notice of a Major Disaster Declaration

[FEMA-906-DR]

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Mississippi (FEMA-906-DR), dated May 17, 1991, and related determinations.

**DATED:** June 15, 1991.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

**NOTICE:** The notice of a major disaster for the State of Mississippi dated May 17, 1991, is hereby amended to add Public Assistance and include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 17, 1991:

The counties of Chickasaw, Hancock, and Oktibbeha for Individual Assistance and Public Assistance; and

The counties of Carroll, Clay, George, Grenada, Holmes, Issaquena, Marshall, Sharkey, Tate, Warren, Yalobusha, and Yazoo for Public Assistance (already designated for Individual Assistance)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

[FR Doc. 91-15438 Filed 6-27-91; 8:45 am]

BILLING CODE 6710-02-M

#### Nebraska; Amendment to Notice of a Major Disaster Declaration

[FEMA-908-DR]

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Nebraska (FEMA-908-DR), dated May 28, 1991, and related determinations.

**DATED:** June 14, 1991.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

**NOTICE:** The notice of a major disaster for the State of Nebraska, dated May 28, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 28, 1991:

The counties of Colfax, Dodge, Madison, and Stanton for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

[FR Doc. 91-15441 Filed 6-27-91; 8:45 am]

BILLING CODE 6710-02-M

#### FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

**Appraisal Subcommittee; Extension of Deadline for Use of Certified or Licensed Appraisers in Federally Related Transactions**

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice extending effective date For American Samoa ("AS") and the Commonwealth of the Northern Mariana Islands ("CNMI").

**SUMMARY:** Notice is hereby given that the Appraisal Subcommittee ("ASC"), with the approval of the Federal Financial Institutions Examination Council ("FFIEC"), ordered the extension until December 31, 1991, of the effective date for the use of certified or licensed appraisers for all appraisals performed in connection with federally related transactions under title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

["FIRREA"]<sup>1</sup> in AS and CNMI. This extension is now effective in 56 of the ASC's 57 jurisdictions.

**DATES:** This action is effective on June 28, 1991.

**ADDRESSES:** Copies of this notice are available upon request to the Appraisal Subcommittee, Federal Financial Institutions Examination Council, 1776 G Street, NW., suite 550B, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel to the Appraisal Subcommittee, at the address given above; telephone (202) 357-0133.

**SUPPLEMENTARY INFORMATION:** Title XI of FIRREA provides for the adoption and implementation by the various States of standards and procedures for the certification and licensing of appraisers. The ASC is required to monitor these State appraiser certification and licensing programs. Federally regulated depository institutions are to use these appraisers in federally related real estate transactions. However, the ASC is authorized in section 1119(a)(2) (12 U.S.C. 3348(a)(2)) to extend from July 1, 1991, to December 31, 1991, the effective date for using certified or licensed appraisers in connection with federally related transactions. That authority is premised upon "a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title."

Since enactment of FIRREA, the ASC has closely monitored the development of appraiser qualification standards in the various States and other jurisdictions subject to title XI. This effort has included the careful review of State legislative and regulatory proposals designed to implement title XI's requirements, as well as the providing of comments, suggestions, guidance and direction in this regard, both general and specific, oral and written. On May 1, 1991, the ASC found that each State, the District of Columbia, Puerto Rico, Guam and the Virgin Islands qualified for the December 31, 1991 extension. See 56 FR 20802 (May 1, 1991). AS, CNMI and Palau did not qualify for an extension at that time.

The ASC hereby finds that AS and CNMI have made substantial progress toward establishing an appraiser certification and licensing system in conformity with title XI. Statutes have been or are being enacted as required by

title XI.<sup>2</sup> The ASC commends these jurisdictions and encourages each to implement its system before the end of the extension period. Moreover, the ASC encourages lenders to use appraisers certified or licensed by these systems as soon as possible.

The ASC further finds that such an extension facilitates Congress's intention to implement title XI's new regulatory scheme with minimal disruption and confusion at the state and Federal levels. The ASC recognizes that less than two years have passed since title XI was adopted on August 9, 1989, and while the States and other jurisdictions have made significant progress, they have had relatively little time to create from scratch an appraiser licensing and certification system. Many tasks are involved in that effort, including an analysis and determination of title XI's requirements, preparing and adopting legislation, creating valid testing and qualification standards, establishing agencies to administer the various aspects of the regulatory program, and coordinating these and other tasks with the ASC, other Federal agencies and entities, and various industry groups. By extending title XI's effective date for use of certified and licensed appraisers in federally related transactions until December 31, 1991, the ASC fully anticipates that, on January 1, 1992, all aspects of a nationwide, comprehensive and uniform real estate appraiser regulatory system will be in place, as contemplated by Congress when it adopted title XI.

For these reasons, the ASC, with the approval of the FFIEC, hereby extends to December 31, 1991, the deadline for use of certified or licensed appraisers in federally related transactions, pursuant to its authority in section 1119(a)(2) of FIRREA (12 U.S.C. 3348(a)(2)), in AS and CNMI.<sup>3</sup>

By order of the ASC, with the approval of the FFIEC.

Dated at Washington, DC this 24th day of June, 1991.

Fred D. Finke,

Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council.

[FR Doc. 91-15369 Filed 6-27-91; 9:45 am]

BILLING CODE 2770-01-0

<sup>1</sup> The ASC requests that all States and other jurisdictions continue to facilitate the orderly implementation of the Title XI regulatory program by promptly forwarding to the ASC staff all pertinent proposed and enacted legislation and rules and regulations.

<sup>2</sup> The ASC still has not received any formal communications from Palau. Therefore, the ASC at this time has no basis to extend the effective date from July 1, 1991, for Palau.

## FEDERAL RESERVE SYSTEM

### Edgemark Financial Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or sound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 27, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Edgemark Financial Corporation, Chicago, Illinois: to engage *de novo* through its subsidiary, Edgemark Mortgage Corporation, Downers Grove, Illinois, in originating, acquiring, selling and servicing residential mortgage loans pursuant to § 225.25(b)(1)(ii) of the Board's Regulation Y.

<sup>1</sup> Public Law No. 100-57, 503 Stat. 514 (1988); 12 U.S.C. 3329, 3332-3364.

# Appraisal Subcommittee

## 1991 Annual Report

*Appendix I*

Federal Financial Institutions Examination Council, Appraisal Subcommittee



FIL-27-91  
May 24, 1991

1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

May 20, 1991

TO: CHIEF EXECUTIVE OFFICER

SUBJECT: DISCRIMINATION AGAINST REAL ESTATE APPRAISERS BASED ON  
MEMBERSHIP OR LACK OF MEMBERSHIP IN ORGANIZATIONS

It has been brought to the attention of the Subcommittee that some regulated institutions are selecting or hiring real estate appraisers based solely upon the appraiser's membership in particular appraisal organizations or possession of certain professional designations.

The appraisal regulations issued by the Federal Financial Institutions Regulatory Agencies prohibit financial institutions from excluding appraisers from consideration solely by virtue of their membership, or lack of membership, in any particular appraisal organization. Regulators require financial institutions to review the qualifications of appraisers to ensure that they are qualified for the assignment for which they are being considered. It is not acceptable to assume that an appraiser is qualified due to membership in, and designation from, an appraisal organization. An institution's loan policies must not favor appraisers from one or more organizations or exclude individuals based on their lack of such membership.

Institution management should take steps necessary to assure that written policies and practices conform with this non-discrimination requirement. Questions may be referred to the regional or district office of the agency which is the primary Federal regulator of your institution.

THE APPRAISAL SUBCOMMITTEE

*The Appraisal Subcommittee*

Distribution: Insured Banks and Savings Associations

# Appraisal Subcommittee

1991 Annual Report

*Appendix J*





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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

## Press Release

For Immediate Release

May 31, 1991

On May 29, 1991, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") adopted Revised Guidelines Regarding State Certification and Licensing of Appraisers ("Revised Guidelines"). The Revised Guidelines are designed to help the States, Territories and the District of Columbia in establishing effective certification and licensing procedures for real estate appraisers involved in federally related transactions under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. State certified or licensed appraisers generally must be used for federally related transactions beginning January 1, 1992.

The Revised Guidelines include changes based on comments received on their original publication on January 24, 1990 (55 F.R. 2409) and incorporate subsequent ASC advisories, opinions, and clarifications. Publication of the Revised Guidelines in the Federal Register is expected during the week ending June 7, 1991.

# # #

Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

**FOR FURTHER INFORMATION CONTACT:**  
EEOC Agency Clearance Officer:  
Margaret P. Ulmer, Office of  
Management, room 2220, 1801 L Street,  
NW., Washington, DC 20507; telephone  
(202) 663-4279.

**OMB Reviewer:** Joseph Lackey, Office  
of Information and Regulatory Affairs,  
Human Resources and Housing Branch,  
Office of Management and Budget, room  
3208, New Executive Office Building,  
Washington, DC 20503; Telephone (202)  
395-7316.

**Type of Request:** Extension (No  
change).

**Title:** Local Union Report EEO-3.

**Form Number:** EEOC FORM 274.

**Frequency of Report:** Biennial.

**Type of Respondent:** Business/other  
institutions.

**Standard Industrial Classification  
(SIC) Code:** 863.

**Description of Affected Public:**  
Referral Unions with 100 or more  
members.

**Responses:** 3,000.

**Reporting Hours:** 4,500.

**Federal Cost:** \$43,500.

**Applicable under section 3504(h) of  
Public Law 96-511:** Not applicable.

**Number of Forms:** 1.

**Abstract—Needs/Uses:** Data are used  
to investigate charges of employment  
discrimination against local unions and  
apprenticeship programs. Data are  
shared with 38 State and 102 local Fair  
Employment Practice Commission  
agencies, and other Federal agencies.

For the Commission.

R. Edison Elkins,

Management Director, Equal Employment  
Opportunity Commission.

[FR Doc. 91-13412 Filed 6-5-91; 8:45 am]

BILLING CODE 6570-06-M

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS91-1]

### Appraisal Subcommittee; Revised Guidelines Regarding State Certification and Licensing of Appraisers

**AGENCY:** Appraisal Subcommittee,  
Federal Financial Institutions  
Examination Council.

**ACTION:** Notice of Revised Guidelines.

**SUMMARY:** The Appraisal Subcommittee  
("Subcommittee") of the Federal  
Financial Institutions Examination  
Council ("FFIEC") today issued Revised  
Guidelines for state certification and

licensing of real estate appraisers. These  
Revised Guidelines are intended to  
assist the States, territories and the  
District of Columbia ("States") in  
establishing effective certification and  
licensing procedures for real estate  
appraisers involved in federally related  
transactions.<sup>1</sup> Certified or licensed  
appraisers must be used for certain  
transactions starting January 1, 1992.<sup>2</sup>  
The Revised Guidelines include changes  
based on comments received on their  
original issuance and also incorporate  
later Subcommittee advisories and  
opinions.<sup>3</sup>

**SUPPLEMENTAL INFORMATION:** States are  
authorized to establish procedures  
under title XI of FIRREA ("title XI")<sup>4</sup> for  
the certification and licensing of  
individuals who are qualified to perform  
appraisals in connection with federally  
related transactions, including a code of  
professional responsibility. Title XI and  
the subsequent establishment of the  
Subcommittee, as well as the adoption  
of appraisal regulations by the federal  
financial institutions regulatory  
agencies, are intended to protect federal  
financial and public policy interests in  
real estate-related financial transactions  
requiring the services of an appraiser.  
Additionally, title XI at a minimum  
requires an appraisal performed in  
connection with a federally related  
transaction to meet the standards set  
forth in the Uniform Standards of  
Professional Appraisal Practice  
("USPAP"),<sup>5</sup> as adopted by the

Appraisal Standards Board ("ASB") of  
the Appraisal Foundation.<sup>6</sup>

Section 1102 of title XI, 12 U.S.C. 3310,  
established the Subcommittee and  
placed it within the FFIEC. The  
Subcommittee consists of a  
representative appointed by the heads  
of each FFIRA and the Department of  
Housing and Urban Development. The  
Subcommittee has permanent staff to  
assist the Subcommittee and provide  
advice to the States and to carry out  
Subcommittee rules, interpretations,  
policies and directives.

The Subcommittee has several  
statutory duties under title XI. First, the  
subcommittee must monitor the  
appraisal regulations adopted by the  
FFIRAs and the RTC. Those regulations  
set out appraisal standards for federally  
related transactions and define those  
federally related transactions requiring  
the services of a State certified or State  
licensed appraiser. Second, the  
Subcommittee must monitor and review  
the practices, procedures, activities, and  
organizational structure of the Appraisal  
Foundation. Third, the subcommittee  
must monitor each State's certification  
and licensing programs for real estate  
appraisers. In that regard, each State  
with an appraiser certifying and  
licensing agency is responsible for  
transmitting to the subcommittee a  
roster of these individuals, along with  
an annual registry fee. The  
subcommittee must maintain a national  
registry of all state certified and  
licensed appraisers who are eligible to  
perform appraisals in federally related  
transactions. The subcommittee also  
must review each State's compliance  
with the requirements of title XI and is  
authorized by title XI to take action  
against non-complying States.<sup>7</sup>

These Revised Guidelines are  
intended to assist each State in its  
efforts to establish and maintain a real  
estate appraiser regulatory system  
conforming with title XI. More  
specifically, the Revised Guidelines are  
intended to: (1) Facilitate the timely  
implementation of State certification  
and licensing programs, (2) promote the  
independence of State appraisal  
regulatory functions, (3) reduce the  
potential for conflicts of interest, and (4)  
address concerns regarding, among  
other things, exemptions,  
grandfathering, mandatory dual  
licensing, discrimination and reciprocity.

<sup>6</sup> The Appraisal Foundation was incorporated in  
Illinois on November 30, 1987, by several  
professional appraisal organizations as a not-for-  
profit corporation to enhance the quality of  
professional appraisals. The Foundation is  
headquartered in Washington, DC.

<sup>7</sup> See title XI, Section 1118, 12 U.S.C. 3317.

<sup>1</sup> The term "federally related transaction" means  
any real estate-related financial transaction which  
involves a federal financial institutions regulatory agency  
("FFIRA") or the Resolution Trust Company  
("RTC") engages in, contracts for, or regulates, and  
which requires the services of an appraiser. The  
FFIRAs are the Board of Governors of the Federal  
Reserve System, the Federal Deposit Insurance  
Corporation, the Comptroller of the Currency, the  
Office of Thrift Supervision and the National Credit  
Union Administration. Title XI, Section 1121(b), 12  
U.S.C. 3350(b).

<sup>2</sup> The Subcommittee extended this effective date  
from July 1 to December 31, 1991, pursuant to  
Section 1119(a)(2) of title XI of the Financial  
Institutions Reform, Recovery, and Enforcement Act  
of 1989 ("FIRREA"), 12 U.S.C. 3348(a)(2), 56 FR 20002  
(May 1, 1991).

<sup>3</sup> The Subcommittee originally issued these  
Guidelines for public comment on January 18, 1990  
as Docket AS90-1, 55 FR 2408 (January 24, 1990)  
("Initial Guidelines"). Clarifications were issued on  
February 28, 1990, August 8, 1990 (Advisory 90-1),  
November 28, 1990 (Advisory 90-2), and January 25,  
1991 (Advisory 91-1).

<sup>4</sup> Public Law No. 101-73, 103 Stat. 511 (1989); 12  
U.S.C. 3310, 3331-3331.

<sup>5</sup> The FFIRAs and the RTC published pertinent  
portions of USPAP as an appendix to their  
respective appraisal regulations. See 56 FR 53610  
(December 31, 1990).

**EFFECTIVE DATE:** June 6, 1991.

**FOR FURTHER INFORMATION CONTACT:** Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel; Appraisal Subcommittee, Federal Financial Institutions Examination Council; 1775 G Street, NW., suite 850B; Washington, DC 20006; (202) 357-0133.

**SUMMARY OF COMMENTS:** On January 18, 1990, the subcommittee solicited public comment on its Initial Guidelines to the States regarding certification and licensing of real estate appraisers. The subcommittee received 163 comments from interested individuals and organizations, including 44 individual appraisers and appraisal firms, 27 members of Congress, 23 state regulatory agencies, and 24 appraiser trade groups. The remaining 45 comments were submitted by real estate brokers and broker associations, banks and bank trade associations, savings and loan associations, attorneys and law firms, an accounting trade group, a federal agency and a federal department. The principal issues raised by the respondents are discussed below.

#### Authority, Purpose and Scope

A few respondents suggested the subcommittee had exceeded its authority in title XI when it issued the Initial Guidelines. Respondents believed the Guidelines mandated the structure of State appraiser regulatory schemes, therefore exceeding the subcommittee's limited statutory role of monitoring State compliance with title XI.<sup>8</sup> The subcommittee's Initial and now-Revised Guidelines are not requirements. They provide each State with an understanding of how the Subcommittee will evaluate the State's compliance with title XI. Additionally, consistent with title XI and the intent of Congress, the Guidelines promote the establishment of uniformity and a level regulatory playing field among the States.

#### Location of Agency

Forty-one respondents questioned the need for a State's real estate appraiser regulatory agency ("Appraiser Agency") to be totally independent from existing State regulatory agencies having responsibilities over affected industries.<sup>9</sup> Most respondents believed

that the appraiser function could be supervised by an umbrella regulatory agency or real estate commission, provided that adequate safeguards existed to minimize the potential for undue influence. To comply with this Guideline, some States determined their laws and constitutions would require amendment, which they indicated would be a costly and burdensome process (particularly for less populous States).

The subcommittee's Initial and Revised Guidelines strongly encourage States to create a totally independent Appraiser Agency. The Subcommittee, however, recognizes that this may not be possible for every State because of fiscal or other appropriate reasons. When such reasons exist, the subcommittee expects the State to structure its Appraisal Agency to eliminate undue influence by any affected industry.<sup>10</sup>

#### Appointment of the Agency Head

The Initial Guidelines stated that the appointment of an Appraiser Agency head or members of the appraiser board should be made by an individual or committee not associated with an affected industry. All fifteen respondents, including appraisers and appraisal firms, supported this position, and the subcommittee has included it in the Revised Guidelines.

#### Independence From Affected Industries

The Initial Guidelines called for the individual head of the Appraiser Agency to be independent from the appraisal profession and affected industries while in office and for a reasonable time thereafter. For an Appraiser Agency headed by a board or commission, the Initial Guidelines also indicated that board or commission-led Appraiser Agencies should represent the broad public interest and should not be dominated by any one industry or profession.

A majority of the 94 respondents on this issue believed that the Initial Guidelines precluded the best source of appraisal expertise from serving on appraiser regulatory boards or commissions. The Subcommittee recognizes that significant appraiser representation on an appraiser regulatory board or commission can help to ensure that the regulatory body has adequate knowledge and experience. This type of representation has long been allowed on other professional and industry regulatory

boards. In fact, on February 28, 1990, the subcommittee issued a clarification of the Initial Guidelines to reflect that an appraiser board or commission comprised of a majority of appraisers likely would not result by itself in subcommittee disapproval or rejection of a State's appraiser regulatory system.<sup>11</sup> The subcommittee has incorporated this clarification into the Revised Guidelines. The subcommittee continues its strong view that, as a matter of sound public policy, state appraiser boards or commissions should adequately represent the broad public interest and should include meaningful public representation.

#### Independence of Decision Making

The Initial Guidelines stressed that decisions of an Appraiser Agency should not be made by the same officials responsible for decisions regarding affected industries. Thirty-five respondents addressed this point, several being States with either umbrella regulatory schemes or real estate commissions. Most respondents indicated that sufficient safeguards exist to ensure the integrity of decisions made by the appraiser regulatory body.

The Subcommittee continues its strong preference that the State appraiser regulatory function be established as a totally independent agency answerable to a high ranking state official, e.g., a State cabinet level officer, who has no regulatory responsibility over realty related activities. The subcommittee, however, understands that this could be a burden on some States. As a result, the Revised Guidelines permit other administrative structures so long as adequate safeguards exist to eliminate the influences of affected industries.

The Initial Guidelines also stated that the appraiser regulatory body's decisions should be final and subject only to judicial review. While most respondents agreed with this position, many believed that some existing State laws that dictate the State's regulatory structure may conflict with this aspect of the Guidelines. In this regard, the subcommittee believes that any State regulatory structure allowing any affected industry regulatory body to have "veto power" over the actions of the Appraiser Agency would adversely

<sup>8</sup> Title XI provides the States with a great deal of flexibility in structuring their regulatory programs.

<sup>9</sup> An "affected industry" includes entities that have a direct or indirect pecuniary interest in appraisals, such as real estate brokers, financial institutions, and construction companies.

<sup>10</sup> An example of undue influence by an affected industry would be if the majority members on the Appraiser Agency were real estate brokers or representatives of the real estate financing industry.

<sup>11</sup> The Revised Guidelines contain the clarification that the subcommittee generally will evaluate each State's system for regulating appraisers on its entry, including the adequacy of safeguards to prevent conflicts of interest, before considering any adverse action against a particular State's appraisal regulatory system.

affect the independence of the decision-making power of the Appraiser Agency and would be inconsistent with title XI.

#### Requirements for Certified and Licensed Appraisers

Under title XI, States may establish requirements for individuals obtaining real estate appraiser certification or licensure. Each State's certification requirements must meet the minimum standards adopted by the Appraiser Qualifications Board ("AQB") of the Appraisal Foundation, and each State certified appraiser must pass a suitable State examination. The examination must be endorsed by the AQB and must follow the AQB's Uniform State Certification Examination Outline.

Licensing is treated differently. While each State may establish its own licensing requirements, the subcommittee believes that, to comply with the spirit and intent of title XI, States should include meaningful education, testing, experience, and continuing education requirements.<sup>12</sup> As guidance to the States, the subcommittee has indicated that the AQB's qualifications for "Licensed Real Property Appraiser" are acceptable as meaningful standards for licensing.

Several respondents pointed out that some State's appraiser classification terms differ from those used by the subcommittee. Moreover, a few States with a significant quantity of very high priced single family homes have expressed the need for a "residential certified appraiser" classification.

The subcommittee prefers that States use the same designation terms as title XI, *i.e.*, "State Certified" and "State Licensed." Nevertheless, the subcommittee, in Advisory 91-1, agreed to accept the "certified residential appraiser" classification if a State determines it necessary. The subcommittee reaffirms the Advisory by incorporating it in the Revised Guidelines, and notes that a State adopting this second certification classification must follow the AQB's "Certified Residential Real Property Appraiser" qualification standards.<sup>13</sup> The State also must require applicants to pass an examination that is endorsed by the AQB.

#### Appraiser Qualifications Criteria

Thirty-four respondents had several concerns about the AQB's qualifications criteria for certification and licensing.

<sup>12</sup> In general, the subcommittee encourages the States to adopt meaningful, but not overly restrictive, licensing requirements.

<sup>13</sup> The residential certification standards were adopted by the AQB on March 27, 1991.

First, some commented that the AQB failed to provide adequate due process safeguards for establishing and modifying its criteria. The subcommittee does not agree with the respondents. The AQB went through a detailed, public proceeding in arriving at the criteria. On July 24, 1990, the AQB issued its standards for "Residential Real Property Appraiser" and "General Real Property Appraiser."<sup>14</sup> Over the next several months, the AQB worked closely with its members and the subcommittee to refine the criteria, and, on December 20, 1990, the AQB issued several exposure drafts proposing revised criteria for comment. After consideration of comments received from interested members of the public and the subcommittee, the AQB, on March 27, 1991, adopted its revised standards for the certified general and certified residential classifications and its recommendations for the licensed real property appraiser classification.

Second, respondents questioned the number of classroom hours required to meet the education criteria, as well as a person's ability to sit for the examination before completing the required course work. The Revised Guidelines incorporate Advisory 90-2, in which the subcommittee expressed its willingness to recognize, on a transitional basis, State licensed appraisers who: (1) Have passed the examination; and (2) have met either the experience or the education requirements established by the States. Licensed appraisers, however, would need to satisfy the missing requirement within no more than two years after passing the appropriate test and being provisionally licensed by the State. The subcommittee urges each State to limit the issuance of transitional licenses to the first two years after implementation of its licensing program.<sup>15</sup>

Third, many respondents questioned the appraiser experience requirements, including the acceptability of real estate related experience. The subcommittee addressed these comments when it issued Advisory 90-2. There, the subcommittee advised the States that real estate related experience (such as real estate lending or real estate brokering) should be considered

<sup>14</sup> In its Initial Guidelines, the subcommittee endorsed the "General Real Property Appraiser" qualifications criteria as the minimum standard for a state certified appraiser and the "Residential Real Property Appraiser" qualifications criteria as meaningful standards for a state licensed appraiser.

<sup>15</sup> The Revised Guidelines clarify that State transitional certification provisions are inconsistent with title XI because the AQB's certification criteria compel the completion of all education requirements before a person can take the certification examination.

acceptable for licensure, if that experience included the actual performance or professional review of appraisals. The subcommittee has incorporated this Advisory into the Revised Guidelines.

#### Exemptions and Grandfathering

The Initial Guidelines stated that no group of individuals should be exempt from meeting the certification or licensing criteria. Twenty-five respondents had a wide range of views on this subject. Some indicated that no groups of certified or licensed appraisers should be "grandfathered," while others thought that a grandfathering provision for licensed appraisers would be appropriate.

The subcommittee's position on not allowing exemptions and grandfathering remains unchanged. States, however, can carry over an individual or group's existing certification or licensure status, if the person or group satisfies the State's certification or licensing requirements and those requirements are consistent with title XI.

#### Mandatory Dual Licensing

The Revised Guidelines reiterate the subcommittee's position that State laws should not require any applicant for appraisal certification or licensing to hold another professional license as a condition for obtaining an appraisal license or certification. The majority of respondents agreed with this position.

#### Code of Professional Responsibility

Several respondents agreed with the subcommittee's Initial Guidelines that each State should include an appropriate code of professional responsibility in its certification and licensing requirements. The Revised Guidelines refer specifically to the Ethics Provision of the USPAP, as adopted by the ASB, as being an appropriate code of professional responsibility.

#### Other Issues

Several respondents raised various items that were not discussed in the Initial Guidelines such as: Reciprocity among States, discrimination, the role of the Appraisal Foundation, USPAP, title XI implementation costs, and States' rights. Where appropriate, the subcommittee has addressed these comments at various points in the preamble and the Revised Guidelines.

#### Conclusion

In response to public comment received on the Initial Guidelines, the subcommittee is now issuing the

Revised Guidelines. The Revised Guidelines replace the initial Guidelines and clarifications.<sup>16</sup>

The subcommittee, as necessary, may release new Advisories clarifying the Revised Guidelines.

Dated: May 29, 1991.

Fred D. Finke.

*Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council.*

### Introduction

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA")<sup>17</sup> established the Appraisal Subcommittee ("subcommittee") of the Federal Financial Institutions Examination Council ("FFIEC"). The purpose of title XI is to protect federal financial and public policy interests in real estate-related financial transactions<sup>18</sup> requiring the services of an appraiser. Among other duties, the subcommittee must monitor the requirements established by the States, territories, and the District of Columbia ("States") for certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions.<sup>19</sup> The subcommittee also must monitor the activities of the FFIRAs and the RTC, the States, and the Appraisal Foundation in meeting the requirements of title XI.

In exercising its oversight responsibilities over the States, the subcommittee must review each State's overall regulatory scheme to determine compliance with title XI. This does not mean that all matters must be covered by legislative enactment. Many can be a matter of regulation, procedure, and practice. Conversely, an otherwise adequate set of statutes or regulations can be invalidated by inadequate

implementation. Consequently, while the subcommittee will continue to review and give comments on State regulatory programs, its comments are not and cannot be taken as a formal approval or disapproval. Any State scheme is valid unless the subcommittee formally rejects or disapproves the State regulatory scheme using the procedures in title XI.

In addition to establishing the Subcommittee, major aspects of title XI include:

- The requirement that the FFIRAs and the RTC set real estate appraisal standards for federally related transactions;
- A framework in which each State may establish a real estate appraiser certification and licensing scheme;
- The establishment of the Uniform Standards of Professional Appraisal Practice ("USPAP") by the Appraisal Standards Board ("ASB") of the Appraisal Foundation as the minimum standards for real estate appraisals for federally related transactions; and
- The establishment of minimum qualification requirements by the Appraiser Qualifications Board ("AQB") of the Appraisal Foundation for certified real estate appraisers as well as the requirement that appraisals for all federally related transactions over \$1 million be performed by a state certified appraiser.

### Purpose

The Guidelines were originally issued for comment in January 1990 ("Initial Guidelines"), with subsequent Advisories and clarifications in February 1990, August 1990, November 1990, and January 1991. Based on public comments and Subcommittee interpretations, the Subcommittee has adopted these Revised Guidelines to assist the States further in implementing title XI. The Subcommittee is issuing these Revised Guidelines to assist the States in establishing appropriate organizational and regulatory structures for the certification and licensing of real estate appraisers. The Revised Guidelines reflect the general framework that the Subcommittee will use in reviewing a State's program for compliance with title XI. The initial Guidelines, Advisories and clarifications are obsolete and rescinded.

### State Regulatory Structure

The Subcommittee does not intend to impose any particular organizational structure upon the States. It recognizes that each State has fiscal, regulatory or

other valid constraints that could influence the structure and location of a real estate appraiser regulatory agency. The legislative history of title XI indicates, however, that States should adopt an organizational structure for implementing their appraiser licensing, certification and supervision functions in a manner to avoid potential conflicts of interest. Any state choosing to locate its appraiser regulatory function in a department that regulates real estate licensing, promotion, development, or financing functions ("realty related activities") must ensure that adequate safeguards exist to protect the independence of the appraiser regulatory function.

### Real Estate Appraiser Regulatory Agency

A State's real estate appraiser regulatory body ("Agency") may be a board, commission, or individual. The organizational structure should provide maximum insulation for the Agency from the influence of any industry or organization whose members have a direct or indirect financial interest in the outcome of the Agency's decisions.

### Agency Location Within State Government

The subcommittee believes each State should establish a totally independent Agency. The Agency should be answerable only to the governor or to a cabinet level officer who has no regulatory responsibility for realty related activities. If, due to fiscal or other appropriate constraints, a totally independent Agency is not feasible, the State may choose to locate the Agency within an existing state regulatory body. Adequate safeguards, however, must exist to eliminate any possible influence from realty related activities.

### Agency Head and Member Appointment

Persons appointing the Agency head or members of an appraiser board or commission should not be associated or affiliated with an affected industry.<sup>20</sup> For example, an autonomous agency head, appointed by the governor and subject to confirmation by the state legislature, most likely would be considered an acceptable independent appointment.

Under a board or commission regulatory structure, the subcommittee believes that as a matter of sound public policy, state appraiser boards or

<sup>20</sup> An individual would be affiliated or associated with an affected industry if the individual has a direct or indirect financial interest in real estate licensing, promotion, development or financing.

<sup>16</sup> See note 3 *supra*.

<sup>17</sup> Public Law No. 101-73, 103 Stat. 511 (1989), 12 U.S.C. §§ 3301-3351.

<sup>18</sup> A "real estate-related financial transaction" means any transaction involving the sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; the refinancing of real property or interest in real property; and the use of real property or interest in property as security for a loan or investment, including mortgage-backed securities.

<sup>19</sup> The term "federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency ("FFIRA") or the Resolution Trust Corporation ("RTC") engages in, contracts for, or regulates, and which requires the services of an appraiser. The FFIRAs are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. Title XI, Section 1121(i), 12 U.S.C. 3350(i).

commissions should adequately represent the broad public interest. With this in mind, an Agency should not be dominated in any way by any industry or profession.<sup>21</sup> The Subcommittee, however, recognizes that members of the appraisal industry should be significantly represented on the appraiser board or commission. Indeed, the subcommittee believes that a board or commission may contain a majority of appraisers. Appraisers can help ensure that the Agency has sufficient expertise and resources to carry out its functions properly.

#### *Agency Independence from Affected Industries*

If an Agency is directed by an individual, the Agency head should not be actively engaged in the appraisal business or in any other realty related activities for the individual's term of appointment or employment, and for a reasonable period thereafter. If an Agency consists of a board or commission, its members should represent the broad public interest.

#### *Independence of Agency Decision Making*

The subcommittee strongly urges that Agency decisions, especially those relating to license or certification issuance, revocation, and disciplinary actions, should not be made by state officials who also are responsible for realty related activities. Additionally, such Agency decisions should be final administrative actions subject to appropriate judicial review.

#### *Appraiser Qualification Criteria*

Title XI requires that real estate appraisals performed in connection with federally related transactions be performed by competent individuals. To demonstrate competency, the subcommittee believes that appraisers subject to title XI must be qualified by meeting appropriate education, testing, and experience requirements.

The decision whether to engage a certified or a licensed appraiser for a specific federally related transaction is prescribed by each FFIRA and the RTC in their real estate appraisal regulations. Title XI, however, mandates that certified real estate appraisers perform all appraisals in connection with federally related transactions over \$1 million and complex 1-to-4 family residential properties.

<sup>21</sup> The subcommittee believes that domination or majority control of the Agency by representatives of affected industries would be considered inappropriate and inconsistent with title XI.

The subcommittee recognizes a minimum of two classifications of appraisers: State licensed and state certified. These two designations are appropriate for most States. Some States with a significant quantity of 1-to-4 family residential transactions that are above \$1 million or of a complex nature, however, may want to have a second certification classification called "certified residential appraiser." The AQB on March 27, 1991, approved that designation, and the subcommittee has recognized it. If a State wants to use all three designations, it must develop and implement procedures to insure that each certification type is easily distinguished from the other. This will avoid confusion by appraiser users, regulators, and other interested persons.<sup>22</sup>

#### *State Certified General Appraiser*

A state certified general appraiser is a person who: (1) Meets at least the minimum criteria for "Certified General Real Property Appraiser," which were adopted by the AQB on March 27, 1991; and (2) passes a state administered examination issued or endorsed by the AQB. The AQB criteria include 165 classroom hours in courses related to specified real estate appraisal matters<sup>23</sup>, 2,000 hours of appraisal experience (with at least 50 percent in non-residential appraising) and 10 classroom hours of continuing education course work for each year during the period preceding certification renewal. Additional qualifications may be required by any State or FFIRA and the RTC that considers such qualifications necessary to carry out its responsibilities under title XI.

#### *State Certified Residential Appraiser*

A State choosing to establish this certification classification must at a minimum follow the "Certified Residential Real Property Appraiser"

<sup>22</sup> The subcommittee is concerned about the potential for confusion and will pay particular attention to designations when reviewing state appraiser regulatory schemes.

<sup>23</sup> The AQB, on March 27, 1991, adopted an Interpretation/Clarification ("IC") of the education criteria that stated: "[C]orrespondence courses are not acceptable to meet the classroom requirement." This IC applies to the AQB's certification requirements and to its licensing recommendations.

A State may recognize credit for course work prior to July 1, 1990, where an appraiser obtains credit for a course through a challenge examination without actually attending the course. It has been common practice for appraisers to obtain education credits through the challenge examination method. An Agency should review the quality of each challenge examination to determine the acceptability of the course for credit. The AQB's certification and licensing criteria recognize this limited acceptability of challenge examinations.

qualifications criteria which were adopted by the AQB on March 27, 1991, and require individuals to pass an examination issued or endorsed by the AQB. The AQB criteria for this classification also include 2,000 hours of appraisal experience and 10 classroom hours of continuing education for each year during the period preceding certification renewal. Until January 1, 1994, 105 classroom hours of real estate appraisal education courses will be needed. After that date, an applicant will need 165 classroom hours of course work, just like a state certified general appraiser.

#### *State Licensed Appraiser*

States are free to establish meaningful, not overly restrictive, qualification criteria for licensed appraisers, including education, testing, experience, and continuing education requirements that demonstrate knowledge and competency. If States choose, they may base their licensing standards on the AQB's "Licensed Real Property Appraiser" classification and related ICs, which were adopted by the AQB on March 27, 1991. All States should require persons to pass a meaningful written test before receiving a license. Such a test may be one issued or endorsed by the AQB, but, in any event, should be independently reviewed and validated by a qualified source.<sup>24</sup>

The Subcommittee considers the AQB's two-year experience recommendation for the "Licensed Real Property Appraiser", i.e., a minimum of 2,000 hours, to be reasonable. It should help ensure that licensed individuals have sufficient appraisal experience.<sup>25</sup> Appraisal experience includes, but is not limited to: Fee and staff appraisals, *ad valorem* tax appraisals, review appraisals, appraisal analyses, real estate counseling, highest and best use analyses, feasibility analyses/studies and teaching of appraisal courses. A State, consistent with title XI, may choose to accept real estate related experience, e.g., work as a real estate lending officer or a real estate broker, for some or all of its experience requirement. That type of experience, however, may be recognized only if it includes the actual performance or professional review of real estate

<sup>24</sup> The subcommittee believes the AQB's National Uniform Examination Content Outline for Residential Real Property Appraiser represents a useful guide to the States.

<sup>25</sup> The subcommittee notes that the time to achieve the necessary hours of experience is treated as cumulative and does not have to be obtained in a set time frame.

appraisals. Each State is expected to adopt adequate procedures to document and verify the experience used to satisfy the requirement.

The subcommittee, likewise, acknowledges that the AQB's education criterion for a "Licensed Real Property Appraiser" reflects meaningful education criteria for licensed appraisers. That standard currently is 75 classroom hours in specific subjects listed in the published criteria. A State may establish other appropriate education requirements, so long as they are consistent with title XI. The subcommittee will review each State's education requirements to ensure that they are meaningful, both as to the breadth of subject matter and length of required study. The subcommittee believes it important that States include continuing education as a licensing requirement. Continuing education should help to ensure that licensed appraisers maintain and enhance their appraisal skills and knowledge. The subcommittee is of the view that the AQB's continuing education recommendation for a licensed real property appraiser, which is 10 classroom hours for each year of the period preceding the renewal of the license, is meaningful and should be adopted by the States.

#### *Transitional Licenses and Certifications*

A State may issue transitional licenses to an applicant who has passed the appropriate test, but who lacks either the educational or the experience requirements adopted by the State. Transitionally-licensed appraisers, however, should satisfy the missing requirements within no more than two years after being tested and provisionally licensed by the State. The subcommittee urges each State to limit the issuance of such transitional licenses to the first two years after implementation of its licensing program. Each transitional license should indicate clearly its transitional nature, period of validity, and a non-extendable termination date.

Title XI requires that the States establish certification criteria that, at a minimum, are consistent with the AQB's certification qualifications. At this time, these qualifications compel persons to complete all education requirements before they can take a certification examination.

#### *Other Guidelines*

A State should consider the following subcommittee Guidelines when structuring its appraiser regulatory program.

#### *Exemptions and Grandfathering*

A State cannot exempt or "grandfather" any individual or group from meeting its certification or licensing criteria. States, however, can carry over an individual or group's existing certification or licensure status, if the person or group satisfies the State's certification or licensing requirements and those requirements are consistent with title XI.

#### *Appraisal Standards*

Title XI requires, at a minimum, that real estate appraisals for federally related transactions be performed in accordance with USPAP,<sup>26</sup> as adopted by the ASB. Moreover, each FFIRA and the RTC have issued under title XI additional appraisal standards as they deem appropriate.

#### *Written Appraisal Reports*

Title XI specifically mandates that all appraisals performed in connection with federally related transactions be in written form.<sup>27</sup> The written appraisal must adequately explain the certified or licensed appraiser's opinion of the property's value as of a specific date with a description of the property and presentation of the relevant market information with supporting analysis.

#### *Temporary Practice and Reciprocity*

Title XI requires a State appraisal regulatory agency to recognize on a temporary basis the certification or license of an appraiser from another State provided: (1) The property to be appraised is part of a federally related transaction; (2) the appraiser's business is of a temporary nature; and (3) the appraiser registers with the State appraisal regulatory agency in the State of temporary practice.<sup>28</sup>

The Subcommittee believes that States should not require temporary practitioners to obtain a certification or license in the State of temporary practice. Instead, the State should recognize the certificate or license issued by the individual's State of permanent certification or licensure. A State, however, may establish meaningful and reasonable temporary practice and registration procedures.

<sup>26</sup> USPAP was originally released by the Ad Hoc Committee on Uniform Standards of the Appraisal Foundation on April 27, 1987. On January 30, 1989, the ASB established and adopted USPAP as its initial standards. On June 8, 1990, the ASB revised and amended USPAP's Ethics Provision, Preamble and Standards 1 through 6. The FFIRAs and the RTC published these revisions in the Federal Register as an appendix to their respective appraisal rules. 55 FR 53610 (December 31, 1990).

<sup>27</sup> Title XI section 1101, 12 U.S.C. 3331; section 1110, 12 U.S.C. 3338; and 1121(10), 12 U.S.C. 3350(10).

<sup>28</sup> Title XI section 1122(a); 12 U.S.C. 3351(a).

These procedures should measure "temporary" by specific appraiser assignments and not by a fixed time period or number of properties to be appraised.<sup>29</sup>

Other than the temporary practice provisions, no federal requirements exist regarding permanent State reciprocity agreements. The Subcommittee encourages the States to consider permanent reciprocity arrangements to address the needs of appraisers who practice on a non-temporary, multi-state basis.

#### *Prohibition Against Discrimination*

Title XI and its legislative history express Congressional intent that certain discriminatory practices be avoided. In particular, Congress was concerned that applicants for licensing and certification might be discriminated against on the basis of membership or non-membership in certain appraisal organizations. Although the prohibition against discrimination provision in Title XI explicitly refers to conduct on the part of federal regulatory agencies,<sup>30</sup> the Subcommittee has determined that, under Title XI and its legislative history, such conduct also is inappropriate in the establishment and administration of a State's licensing and certification system. The Subcommittee urges States to adopt legislation or regulations specifically prohibiting such discriminatory practices. The Subcommittee will review the implementation of each State's system to ensure that the system prevents such discriminatory practices.

#### *Codes of Professional Conduct*

States should ensure that an appropriate code of professional responsibility is incorporated into their certification and licensing requirements. The States should refer to USPAP, which provides standards for appraiser conduct, management, confidentiality, and record keeping for guidance.

#### *Registry Fees for State Certified or Licensed Appraisers*

Each State must transmit to the Subcommittee a roster of individuals who have received State certification or licensure. Further instructions on the transmittal of the State's data on certified and licensed appraisers will be provided at a later time.

Each State also must collect an annual \$25.00 registry fee from each of its

<sup>29</sup> A State may choose to charge a reasonable fee for temporary registration.

<sup>30</sup> See title XI section 1122(c); 12 U.S.C. 3351(c).

certified and licensed appraisers<sup>21</sup> who perform or seek to perform appraisals in federally related transactions and must transmit this fee to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. If an appraiser is licensed or certified in more than one State, or registry fee is due from each State in which the appraiser is licensed or certified on a non-temporary basis.

#### Clarifications and Amendments to These Guidelines

These Revised Guidelines will remain the position of the Subcommittee unless later amended by reissuance or clarified through publication of an "Advisory."

[FR Doc. 91-13269 Filed 6-5-91; 8:45 am]

BILLING CODE 6210-01-N

### FEDERAL RESERVE SYSTEM

#### Century Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (i) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (i)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing.

<sup>21</sup> The Subcommittee may raise this fee up to \$50.00 per year, subject to FFIEC approval.

identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than June 27, 1991.

**A. Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02108:

1. *Century Bancorp, Inc.*, Medford, Massachusetts: to acquire Century Financial Services, Inc., Medford, Massachusetts, and thereby engage in providing securities brokerage services to retail customers solely as agent or combined with non-fee investment advisory activities pursuant to §§ 225.25(b)(15) and (b)(4) of the Board's Regulation Y.

**B. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Eastern Iowa Bancshares, Ltd.*, Onslow, Iowa: to acquire Midland Insurance Agency, Onslow, Iowa, and thereby engage in the sale of all forms of insurance with the exception of health insurance, for personal, commercial, and farm needs pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. This activity will be conducted in Onslow, Iowa.

Board of Governors of the Federal Reserve System, May 31, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-13326 Filed 6-5-91; 8:45 am]

BILLING CODE 6210-01-F

#### Correction

This notice corrects a previous Federal Register notice (FR Doc. 91-11954) published at page 23295 of the issue for Tuesday, May 21, 1991.

Under the Federal Reserve Bank of Atlanta, the entry for *Interban Holding Company Limited* is amended to read as follows:

1. *Interban Holding Company Limited*, Nassau, Bahamas ("Interban"), and Interbank Holding Corp., Miami, Florida ("Interbank"); to become bank holding companies by acquiring an additional 47.2 percent of the voting shares of Grovegate Bank, Coconut Grove, Florida, for a total of 53.33 percent. Interban is wholly owned by Interban. Interban is wholly owned by Luis A.

Ortega, Leonidas Ortega, Jaime Ortega, Jorge Ortega, Gustavo Ortega, and Fabian Ortega, all of Guayaquil, Ecuador, each of whom owns approximately 16.7 percent of the shares of Interban.

Comments on this application must be received by July 8, 1991.

Board of Governors of the Federal Reserve System, May 31, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-13329 Filed 6-5-91; 8:45 am]

BILLING CODE 6210-01-F

#### Robert Rauworth, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 27, 1991.

**A. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Robert Rauworth*, Manhattan, Illinois: to acquire an additional 3.94 percent of the voting shares of Manhattan Bancshares, Inc., Manhattan, Illinois, for a total of 14.46 percent, and thereby indirectly acquire First National Bank of Manhattan, Manhattan, Illinois.

**B. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *William H. Zobel*, to acquire an additional 35 percent of the voting shares of WRZ Bankshares, Inc., Plainview, Minnesota, for a total of 54 percent, and thereby indirectly acquire Peoples State Bank of Plainview, Plainview, Minnesota.

**C. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President):



# Appraisal Subcommittee

1991 Annual Report

*Appendix K*

Federal Financial Institutions Examination Council, Appraisal Subcommittee

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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

June 26, 1991

FOR: State Appraisal Regulatory Agencies

SUBJECT: Questions and Answers about Title XI

The Appraisal Subcommittee is issuing the enclosed Questions and Answers for the information of the State Appraisal Regulatory Agencies. They may be used to clarify or answer questions about Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, for the public. The questions include those most frequently asked, and the answers represent Subcommittee positions, or interpretations of Title XI, or the regulations issued by the Federal Financial Institutions Regulatory Agencies.

State Agencies may contact the Subcommittee or the appropriate regional office of the Financial Institution Regulatory Agencies with additional questions or for further clarification of the issues contained in the Questions and Answers.

*THE APPRAISAL SUBCOMMITTEE*  
The Appraisal Subcommittee



1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

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**APPRAISAL SUBCOMMITTEE  
QUESTIONS AND ANSWERS  
FOR STATES**

**Abbreviations:**

AQB.....The Appraiser Qualifications Board.  
ASB.....The Appraisal Standards Board.  
ASC.....The Appraisal Subcommittee of the Federal  
Financial Institutions Examination Council.  
FFIEC.....The Federal Financial Institutions  
Examination Council.  
FFIRA.....Federal Financial Institutions Regulatory  
Agencies: The Board of Governors of the  
Federal Reserve System, the Federal Deposit  
Insurance Corporation, the National Credit  
Union Administration, the Office of Thrift  
Supervision, and the Office of the  
Comptroller of the Currency.  
Foundation.....The Appraisal Foundation.  
FRT.....Federally Related Transaction.  
RTC.....The Resolution Trust Corporation.  
Title XI.....Title XI of the Financial Institutions  
Reform, Recovery, and Enforcement Act of  
1989.  
USPAP.....The Uniform Standards of Professional  
Appraisal Practice.

1. **Q: Please explain the purpose of Title XI and the responsibilities of the ASC.**

**A: The purpose of Title XI is to provide that federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals for these transactions are performed in writing, in accordance with uniform standards, by individuals with demonstrated competency and whose professional conduct is subject to effective supervision.**

The ASC has been established within the FFIEC and has three basic responsibilities regarding appraiser licensure and certification: to monitor the States' licensing and certifying systems, to monitor the appraisal regulations of the FFIRAs, and to monitor the practices, procedures, activities, and organizational structure of the Foundation.

2. Q: Who are the members of the FFIEC and the ASC?

A: The FFIEC consists of the head or designated representative of the five FFIRAs. Each of these individuals is appointed by the President of the United States, with the advice and consent of the Senate and serves for a designated term.

The members of the ASC are career employees of the five FFIRAs who have been appointed to serve on the ASC. In addition, the U.S. Department of Housing and Urban Development is a member of the ASC and is represented by a career employee. Members of the ASC serve at the pleasure of their Agency Heads.

3. Q: What is the relationship of the ASC to the following entities: the Foundation, the AQB, the ASB, and the FFIRAs? What are the responsibilities of these entities?

A: While not directly related to any of these entities, the ASC is responsible for monitoring their activities, including:

- The Foundation's practices, procedures, activities and organizational structure as well as its related boards: the AQB and the ASB.
- Regulations adopted by the FFIRAs related to real estate appraisal standards.

The ASC is also charged with making financial grants to the Foundation in support of the work of the AQB and the ASC.

The Foundation was established as a private not-for-profit corporation bringing together interested parties within the appraisal industry, as well as users of appraiser services, to promote professional standards within the appraisal industry. The Foundation contains two independent Boards referred to in Title XI, the AQB and the ASB. Title XI specifies that the minimum standards for appraiser certification are to be the criteria for certification as issued by the AQB. Additionally, Title XI requires that the appraisal standards prescribed by the FFIRAs as a minimum be

the appraisal standards promulgated by the ASB.

Title XI directs the FFIRAs and the RTC to prescribe appropriate standards for the performance of real estate appraisals in connection with each FRT under their jurisdiction. Each of these six agencies has issued regulations on real estate appraisals for the financial institutions under their jurisdictions, setting forth the standards to be followed, and identifying those transactions that require the services of a State certified or licensed appraiser. The FFIRA and RTC regulations also apply to the agencies' own transactions.

Refer to the answer to Question 22 for information on how to contact the Foundation, the RTC, and the FFIRAs.

4. Q. What is the difference between an FRT and a non-FRT? Who can perform an appraisal in an FRT? In a non-FRT?

A: An FRT is defined at Section 1121 (4) of Title XI as any real estate related financial transaction which a FFIRA or the RTC engages in, contracts for, or regulates and which requires the services of an appraiser. Section 1121(5) defines "real estate related financial transaction" to include sales, leases, and purchases of interests in real property, the financing or refinancing thereof, and the use of real property as collateral--including mortgage backed securities. Also pertinent are the implementing regulations that have been issued by the FFIRAs and the RTC. Examples of an FRT include real estate loans, real estate investments, "Other Real Estate Owned," and mortgage-backed securities where a regulated financial institution or one of the FFIRAs is involved.

A non-FRT is a real estate-related financial transaction that fails to meet the definitional criteria of Title XI. Generally, it consists of a transaction in which neither a FFIRA nor the RTC engages in, contracts for, or regulates or which does not require the services of a State certified or licensed appraiser under FFIRA or RTC regulations (but see Question 5 below). Refer to the federal regulations for further details.

After December 31, 1991, all appraisals prepared in conjunction with an FRT must be performed by a State certified or licensed appraiser. The regulations of the FFIRAs and the RTC specify when an FRT requires an appraisal by a State certified appraiser and when by a State licensed appraiser.

An appraisal prepared in conjunction with a non-FRT is

not subject to Title XI. That is not to say such transactions are not subject to oversight by any federal or state agency. For example, the United States Internal Revenue Service has real estate appraisal guidelines, regulations or statements of policy concerning certain transactions that are not governed by Title XI.

5. Q: Do appraisers who are employed by the federal or State or local governments have to be State licensed or certified?

A: Aside from the "scarcity" and "inordinate delays" provisions, as discussed in Question 6 below, Title XI offers no exception from the requirement that, effective January 1, 1992, an appraisal performed in connection with an FRT must be performed by a State licensed or State certified appraiser. Some real estate-related financial transactions requiring the services of appraisers employed by federal, State, county or local governments may not be FRTs. Examples could include appraisals done in conjunction with property condemnation proceedings, valuations made for tax assessment purposes, and appraisal review functions or other functions required by the government which are not classified as FRTs. Therefore, in such cases, the use of State certified or licensed appraisers would not be required by Title XI.

6. Q: Under what circumstances may a State or others seek from the ASC a temporary waiver of certification or licensing requirements?

A: Section 1119 (b) of Title XI provides that the ASC may grant a temporary waiver of appraiser certification or licensing requirements upon a written determination that there is a scarcity of qualified appraisers for certain types of FRTs in a State, leading to inordinate delays in the performance of such appraisals. The waiver may relate to any requirement for licensure or certification, e.g., classroom education or experience.

The determination that a scarcity of qualified appraisers exists may be made by either the ASC or a State agency that is in compliance with Title XI. The ASC may grant a waiver, with the approval of the FFIEC, and it terminates when the ASC finds the inordinate delays to have been eliminated. When terminated, the specific licensing or certification requirements that had been waived must then be satisfied. The ASC expects to publish for comment and adopt later in 1991 procedures for processing waiver requests and granting those requests.

7. Q: What classifications of appraisers does the ASC recognize and what are the minimum qualifications criteria for these classifications?

A: The ASC recognizes three classifications of real estate appraisers: "Licensed," "Certified General," and "Certified Residential."

The minimum appraiser qualifications criteria for the "certified" classifications are, as required by Title XI, those established by the AQB. The ASC expects that few States will elect to have two categories of certification. If they choose to have just one category, it must meet the certified general criteria.

Title XI does not set specific criteria for the "licensed" classification. These are to be individually determined by each State. Nonetheless, the ASC believes States should adopt meaningful, but not overly restrictive, qualifications criteria for licensed appraisers, including testing, basic education, experience, and continuing education requirements that are adequate to demonstrate knowledge and competency. The ASC believes the AQB's qualifications criteria for licensed appraisers to be consistent with ASC Guidelines and Title XI and offer States a "safe harbor" assurance should they use them. Other licensing criteria are not necessarily inconsistent with Title XI.

8. Q: How will the ASC monitor a State for compliance with Title XI? Will the State receive formal approval or disapproval of its appraiser regulatory scheme from the ASC?

A: The ASC's objectives, standards, policies, and procedures relative to monitoring States' appraiser certifying and licensing entities are being developed at this time. The ASC expects to announce its monitoring program before the end of 1991. The proposed program will include, among other things, the ASC's detailed procedures respecting proceedings for non-recognition of States.

The ASC expects that the monitoring process will be a combination of information submissions and periodic on-site examinations. The program is expected to center on developing remedial plans for any deficiencies and efforts to effect correction or improvement before resort to formal de-recognition process.

9. **Q: Will the ASC recognize transitional licensing? Transitional certification?**

**A:** The ASC will recognize on a transitional basis State licensed appraisers who meet either the experience or the education requirements established by the States if the individual appraisers satisfy the missing requirement within no more than two years after they are tested and provisionally licensed by the State. The ASC prefers that the issuance of transitional licenses be restricted to the first two years of a State's new appraiser licensing program.

Because the AQB criteria for certification do not allow for a waiver of any of its requirements at this time, either permanently or for a transitional period, the ASC does not consider transitional certification to be consistent with Title XI. Title XI requires an individual to meet all AQB criteria for certification in order to become State certified.

10. **Q: Is real estate lending and real estate broker experience, as it relates to performing and reviewing appraisals, recognized as acceptable appraisal experience?**

**A:** Qualifications criteria, including experience, are set by the AQB for state certified appraisers while the States establish such standards for State licensed appraisers. The ASC believes it is consistent with Title XI and the AQB criteria for States to recognize, for both State licensed and State certified categories, real estate lending and real estate broker experience if such experience includes the actual performance of such activities as fee or staff appraisal, review appraisal, real estate counseling, feasibility analysis or the teaching of appraisal courses. The ASC strongly urges the States not to be overly restrictive in defining acceptable experience.

11. **Q: Are the States required to enter into reciprocity agreements with other States? Will the ASC provide guidance on State reciprocity?**

**A:** States are neither required nor prohibited by Title XI or ASC policies from entering into reciprocity agreements with other States. The ASC supports State efforts to establish permanent reciprocal arrangements to recognize appraiser licenses and certificates and stands ready to review and offer comment and suggestions on proposed or enacted statutes, regulations or policy guidelines promulgated by the States on the issue of reciprocity. The



ASC defines reciprocity as the permanent recognition of another State's designations. Reciprocity is distinguished from temporary practice.

12. Q: What is meant by the temporary practice provision of Title XI and how does this differ from reciprocity?

A: Temporary practice is addressed but not precisely defined in Title XI. Briefly, section 1122 (a) requires a State certification or licensing agency to recognize an appraiser's certificate or license issued by another State if: (1) the property to be appraised is part of an FRT, (2) the appraiser's business is temporary, and (3) the appraiser registers in the State of temporary practice. In determining what constitutes practice that is "temporary," the States are urged not to be overly restrictive. For example, the ASC has objected to arrangements whereby temporary permits would be valid merely for a specified period, such as six months. In contrast, the ASC has suggested it is acceptable to define "temporary" in terms of appraisal assignments. A temporary permit could be issued to cover a particular appraisal assignment even though it may involve more than one property and could require an unknown period to complete. This is just one alternative, however, and other approaches may well be consistent with Title XI, so long as each State's approach is meaningful and reasonable. Additionally, the ASC believes the States may charge fee which should be reasonable in relation to their actual costs, in conjunction with temporary practice registration.

There are at least four distinctions between temporary practice and reciprocity. First, Title XI is silent on the matter of reciprocity, while it requires recognition of temporary practice. Second, the States have broad discretion to formulate reciprocal arrangements with other States, so long as these agreements are consistent with Title XI. These arrangements will permit a more or less permanent movement of licensed and certified appraisers across State borders. In contrast, the temporary practice provision of Title XI clearly states that the appraiser's business must be of a temporary nature.

Third, if the three general conditions are satisfied for temporary practice, as specified at section 1122 (a), the applicant must be permitted to practice temporarily without having to meet additional licensing or certification requirements in the State in which the appraisal will be performed. That may not necessarily be the case with respect to reciprocity agreements. Fourth, no separate federal registry fee will be expected from those authorized

to practice in another State on a temporary basis, while each issuance of a reciprocal license or certificate may require payment of a federal registry fee (but see Question 13 below).

13. Q: If an appraiser works in more than one State, must the appraiser be licensed or certified in each of those States?

A: The answer depends upon the nature of the particular multi-state appraiser practice. If the appraiser is working under the temporary practice provisions of Title XI, the ASC considers that individual to be designated -- as either State licensed or State certified -- in the "home" State only. And as noted in response to Question 12, States are prohibited from imposing additional licensing or certification requirements with respect to such temporary practice.

If the appraiser is working in other than the "home" State under a permanent reciprocity agreement between the States involved, the affected States must determine if additional licensing or certification requirements have to be met or additional fees paid. If the reciprocity agreement does not require the appraiser to obtain an additional license or certificate, there would be no additional federal fee. On the other hand, if the reciprocity agreement calls for the appraiser to obtain a permanent license or certificate in two or more States that have joined in the agreement, the federal registry fee would be assessed for each separate license or certificate.

14. Q: May a State grandfather appraisers into its licensing and certification system?

A: The guidelines of the ASC provide that no individual or group of individuals shall be deemed exempt from meeting the criteria established for licensing or certification, or be otherwise "grandfathered" into the appraiser licensing and certification system. The ASC has determined that "grandfathering" is inconsistent with Title XI. However, States are not precluded from recognizing existing appraiser licenses or certificates, provided the underlying testing, basic education, experience, and continuing education criteria are fully consistent with Title XI and ASC Guidelines.

15. **Q: May a State require an appraiser to obtain another professional license as a condition to obtaining an appraiser certificate or license? Can a State require an appraiser to be licensed before being certified?**

**A:** The answer to both questions is no. The ASC considers it inconsistent with the spirit and intent of Title XI for States to require other occupational licenses as a condition of granting appraiser certification or appraiser licensing. This does not mean that the same set of experience might not be used to obtain two separate professional designations.

Concerning the matter of licensing as a prerequisite for certification, the ASC believes such a requirement unnecessary and overly restrictive. Title XI establishes only one fundamental standard for certification: that the candidate meet the qualifications criteria of the AQB.

16. **Q: What are the reporting requirements imposed on the States by Title XI?**

**A:** The States are required to report to the ASC a roster of the individuals which the State has certified and licensed. The information will be used by the ASC to maintain a National Registry of Certified and Licensed Appraisers as mandated by Title XI. The ASC is currently developing the system for maintaining the registry and will be providing further guidance to the States on the form and timing of data transmission. The roster will also be used to assure that the proper fees are collected and forwarded.

The States are also required to report to the Subcommittee the disposition of disciplinary action taken against State certified and licensed appraisers. At this time, the ASC is reviewing data reporting requirements for these purposes and will provide further guidance before the end of 1991.

17. **Q: Please explain the payment procedure for the National Registry fee for State licensed and certified appraisers?**

**A:** Under Title XI, each State is required to collect an annual National Registry fee from each appraiser which they certify and license and remit the registry fee to the ASC. A certified or licensed appraiser must pay a National Registry fee for each State in which the appraiser holds a regular license or certificate. They are not required to pay a fee if they are merely permitted to practice but do not have to be licensed or certified. (See also Question

12). The first National Registry fees are not expected to be assessed before January 1, 1992.

18. Q: Has the ASC endorsed or otherwise approved a particular State appraiser regulatory system?

A: No. The ASC believes a meaningful analysis must be made of each State's certification and licensing system in its entirety once it is operational. Full operational status must be achieved no later than January 1, 1992. The ASC will continue to assist States to attain full compliance with Title XI by reviewing and offering comments and suggestions on proposed or enacted statutes and regulations and responding to written or telephonic inquiries on specific issues.

19. Q: Please explain the provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP"). If a State has adopted the USPAP either by statute or rules, must the State also adopt a separate ethics provision to meet Title XI's requirement that each State have a code of professional responsibility?

A: The USPAP were promulgated by the ASB and set forth uniform standards for the preparation of appraisals. These standards address various aspects of appraisal services: real property appraisals and the reporting thereof, review appraisals, real property consulting, and mass appraisals. Other important issues addressed in the USPAP are an appraiser code of professional responsibility and appraiser competency requirements. Title XI requires a real estate appraisal performed in connection with a FRT to meet, at a minimum, the ASB standards. This standard is the USPAP.

States must incorporate into their licensing and certification systems a code of professional responsibility. Title XI, Section 1103 (a) (1). Adoption of the ethics provision of USPAP will meet that requirement and no other ethics provision need be added. If a State does not specifically adopt the ethics provision of USPAP, it must adopt an appropriate code of professional responsibility.

20. Q: What type of discriminatory conduct is prohibited by Title XI?

Section 1122 (c) of Title XI and its legislative history express Congressional concern that applicants for licensing and certification and licensed and certified appraisers might be discriminated against solely on the

basis of membership or non-membership in certain appraisal organizations.

The prohibition against discrimination provision in Title XI explicitly refers only to conduct on the part of the FFIRAs, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the RTC. However, the ASC believes that such conduct is also inappropriate in the establishment and administration of a State's licensing and certification system. In addition, federally regulated financial institutions are subject to this provision through regulations issued by the FFIRAs. Consequently, any State statute, regulation, or action that favors or recognizes membership in a specific appraiser organization would be unacceptable. This would include, e.g., positions on regulatory boards, recognition of education courses, and the purchase of standard tests.

21. Q: Will the ASC investigate complaints filed against a State's appraiser regulatory agency?

A: The ASC will monitor complaints filed with a State agency by ensuring the agency conducts an appropriate and timely investigation and reaches a solution acceptable to the ASC. In addition, the ASC will perform its own investigations into complaints filed directly with the ASC by individuals or groups. The ASC will seek to ensure that the conduct of the State agency or person being investigated is consistent with the letter and spirit of Title XI.

22. Q: Where can an interested party obtain additional information regarding federal appraisal regulatory matters?

A: For questions regarding compliance with Title XI and guidance on the State licensing and certification requirements, an individual should contact:

The Appraisal Subcommittee  
of the Federal Financial Institutions  
Examination Council  
1776 G Street, NW, Suite 850B  
Washington, D.C. 20006  
Phone: (202) 357-0133

For information on the qualification standards for appraisers and the USPAP, an individual should contact:

The Appraisal Foundation  
1029 Vermont Avenue, NW, Suite 900  
Washington, D.C. 20005-3517  
Phone: (202) 347-7727

For information on the real estate appraisal standards applicable to each FRT, an individual should contact the appropriate Federal Agency:

Bank Holding Companies and State Chartered Federal Reserve Member Banks are regulated by:

The Board of Governors of the  
Federal Reserve System  
20th and Constitution Avenue, NW  
Washington, D.C. 20551

National Banks are regulated by:

Office of the Comptroller of the Currency  
250 E Street, SW  
Washington, D.C. 20219

State Chartered Banks who are not members of the Federal Reserve System, State chartered savings banks who are insured by the Bank Insurance Fund, and insured branches of foreign banks are regulated by:

The Federal Deposit Insurance Corporation  
550 Seventeenth Street, NW  
Washington, DC 20429

Savings Associations are regulated by:

Office of Thrift Supervision  
1700 G Street, NW  
Washington, D.C. 20552

Federally Insured Credit Unions are regulated by:

National Credit Union Administration  
1776 G Street, NW  
Washington, D.C. 20456

The RTC may be contacted at the following address:

The Resolution Trust Corporation  
801 Seventeenth Street, NW  
Washington, DC 20434

**Comptroller of the Currency  
Administrator of National Banks**

**Northeastern District Office**  
1114 Avenue of the Americas  
Suite 3900  
New York, NY 10036  
(212) 819-9860

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Massachusetts, New Hampshire, New  
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**Southeastern District Office**  
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245 Peachtree Center Ave., N.E.  
Atlanta, GA 30303  
(404) 659-8855

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Mississippi, N. Carolina,  
S. Carolina, Tennessee, Virginia,  
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**Central District Office**  
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Chicago, IL 60605  
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Suite 700  
Kansas City, MO 64108  
(816) 556-1800

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**Southwestern District Office**  
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500 North Akard  
Dallas, TX 75201-3394  
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Suite 3900  
San Francisco, CA 94105  
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**Federal Deposit Insurance Corporation  
Regional Offices - Supervision**

**Atlanta Regional Office**  
Marquis One Building, Suite 1200  
245 Peachtree Center, Avenue, N.E.  
Atlanta, GA 30303  
(404) 525-0308

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W. Virginia

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**Federal Reserve System**

**Federal Reserve Bank Districts**

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Boston, MA 02106  
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(716) 849-5000

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Pittsburgh, PA 15230)  
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Richmond, VA 23261)  
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Charlotte, NC 28202  
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Charlotte NC 28230)  
(704) 358-2100

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Atlanta, GA 30303-2713  
(404) 521-8500

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Jacksonville, FL 32204  
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Jacksonville 32231-0044)  
(904) 632-1000

**Cincinnati Branch**

150 E. 4th St.  
Cincinnati, OH 45202-0999  
(P.O. Box 999  
Cincinnati, OH 45201-0999)  
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**Baltimore Branch**

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Baltimore, MD 21203)  
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**Culpeper Communications and  
Records Center**

Mount Pony Rd., State Rte. 658  
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Culpeper, VA 22701)  
(703) 829-1261

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Birmingham 35283-0447)  
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Miami, FL 33178  
(P.O. Box 520847  
Miami, FL 33152)  
(305) 591-2065

Nashville Branch  
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Nashville, TN 37203  
(P.O. Box 4407  
Nashville 37203-4407)  
(615) 251-7100

New Orleans Branch  
525 St. Charles Av.  
New Orleans, LA 70130  
(P.O. Box 61630  
New Orleans 70161-1630)  
(504) 586-1505

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Detroit, MI 48226  
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Detroit, MI 48231)  
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Little Rock, AR 72201  
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Little Rock, AR 72203)  
(501) 372-5451

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Louisville, KY 40202  
(P.O. Box 32710  
Louisville, KY 40232)  
(502) 568-9200

Memphis Branch  
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Memphis, TN 38103  
(P.O. Box 407  
Memphis, TN 38101)  
(901) 523-7171

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(405) 270-8400

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Denver, CO 80202  
(Terminal Annex-P.O. Box 5228  
Denver, CO 80217)  
(303) 572-2300

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Omaha, NB 68102  
(P.O. Box 3958  
Omaha, NB 68103)  
(402) 221-5500

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**Houston Branch**  
1701 San Jacinto St.  
Houston, TX 77002  
(P.O. Box 2578  
Houston, TX 77252)  
(713) 659-4433

**San Antonio Branch**  
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San Antonio, TX 78295)  
(512) 224-2141

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Jersey City, NJ 07902  
(201) 413-1000

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3136 S. Winton Road  
Town of Henrietta  
Rochester, NY 14623

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20 Stanwix Street  
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Dakota, Texas, Utah, Wyoming

Alaska, American Samoa, California,  
Guam, Hawaii, Idaho, Montana,  
Nevada, Oregon, Washington

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Conshohocken, PA 19428  
(215) 940-4456

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Boston, MA 02111  
(617) 457-1900

BOWIE AREA OFFICE  
One Tower Center, Suite 401  
4201 Northview Drive  
Bowie, MD 20716-2604  
(301) 805-1000

MAITLAND AREA OFFICE  
555 Winderly Place, Suite 120  
Maitland, FL 32751-7220  
(407) 660-9388

MILWAUKEE AREA OFFICE  
10201 W. Lincoln Ave., Suite 105  
Milwaukee, WI 53227  
(414) 546-6940

SPRINGFIELD AREA OFFICE  
509 W. Capitol, Suite 105  
Springfield, IL 62704  
(217) 544-0434

CINCINNATI AREA OFFICE  
525 Vine Street, 7th FL.  
Cincinnati, OH 45202  
(513) 762-6100

COLUMBUS AREA OFFICE  
100 Old West Wilson Bridge Rd.  
Worthington, OH 43088  
(614) 888-2512

CLEVELAND AREA OFFICE  
799 Rockwell Ave, Fl. 2  
Cleveland, OH 44114  
(216) 589-1200

KNOXVILLE AREA OFFICE  
9040 Executive Park Dr, Suite 264  
Knoxville, TN 37923  
(615) 531-4079

NASHVILLE AREA OFFICE  
701 Bradford Ave.,  
Nashville, TN 37204  
(615) 292-9940

INDIANAPOLIS AREA OFFICE  
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305  
Indianapolis, IN 46240  
(317) 465-1600

ANN ARBOR AREA OFFICE  
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Ann Arbor, MI 48108  
(313) 677-0033

### MIDWEST Region

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Irving, TX 75039  
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ALBUQUERQUE AREA OFFICE  
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115  
Albuquerque, NM 87110  
(505) 888-9701

HOUSTON AREA OFFICE  
16701 Greenspoint Park Dr., Ste 100  
Houston, TX 77060  
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JACKSON AREA OFFICE  
2506 Lakeland Dr., Suite 403  
Jackson, MS 39208-9752  
(601) 932-3349

LITTLE ROCK AREA OFFICE  
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Little Rock, AR 72201  
(501) 376-2428

LUBBOCK AREA OFFICE  
5225 S. Loop 289, Suite 116  
Lubbock, TX 79464  
(808) 794-2899

NEW ORLEANS AREA OFFICE  
2400 Veterans Memorial Bl., Ste. 340  
Kenner, LA 70062  
(504) 465-0152

SAN ANTONIO AREA OFFICE  
Airport Center  
10100 Reunion Place, Suite 660  
San Antonio, TX 78216  
(512) 377-3647

TOPEKA AREA OFFICE  
200 East 6th Street  
Topeka, KS 66601  
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OKLAHOMA CITY AREA OFFICE  
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DENVER AREA OFFICE  
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**San Francisco Regional Office**  
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San Francisco, CA 94104  
(415) 616-1500

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La Palma, CA 90623  
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**SEATTLE AREA OFFICE**  
2201 Sixth Ave., Suite 1500  
Seattle, WA 98121-1889  
(206) 727-5200

**PORTLAND AREA OFFICE**  
610 SW Alder, Suite 805  
Portland, OR 97205  
(503) 242-3852

**SALT LAKE CITY AREA OFFICE**  
10 East South Temple, Suite 975  
Salt Lake City, UT 84133  
(801) 363-1243

# Appraisal Subcommittee

1991 Annual Report

*Appendix L*



stockholder that redeems its stock at any time during the dividend period would be compensated at the end of the dividend period for the FHLBank's use of its funds prior to the stock redemption.

Section 932.3 provides for the payment of dividends from net earnings, the dividend stabilization reserve and undivided profits. The FHLBanks' retained earnings are comprised of the legal reserve, the dividend stabilization reserve and undivided profits. Since the FHLBanks are prohibited from paying dividends from the legal reserve in section 16 of the Bank Act, § 932.3 could not generally provide for the payment of dividends from retained earnings. Rather, it specifically listed the two components of retained earnings from which there could be payment of dividends, namely the dividend stabilization reserve and undivided profits.

Effective January 1, 1992, however, section 724 of the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") amends the Bank Act by eliminating the legal reserve in section 16 of the Bank Act. Public Law No. 101-73, title VII, sec. 701(b)(1), 103 Stat. 412 (August 9, 1989). Thus, retained earnings shall only include the dividend stabilization reserve and undivided profits. The proposed rule, therefore, would amend § 932.3 by substituting in the place of the terms "dividend stabilization reserve" and "undivided profits," the term "previously retained earnings." The terminology change will have no effect on the payment of dividends, since retained earnings will be comprised exclusively of the dividend stabilization reserve and undivided profits.

#### C. Solicitation of Comments

The Finance Board solicits comment on all aspects of this proposed regulation. Specifically, the Finance Board invites comments on alternative ways to ensure the equitable treatment of all members in the distribution of dividends. The Finance Board is providing for a 30-day comment period.

#### Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 605(b) *et seq.*), it is certified that the proposed rule would not have a significant economic impact on a substantial number of small entities.

#### Lists of Subjects in 12 CFR Part 932

Conflict of interests. Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby proposes to

amend title 12, chapter IX, subchapter B, part 932 of the Code of Federal Regulations as follows:

#### SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

#### PART 932—ORGANIZATION OF THE BANKS

1. The authority citation for part 932 continues to read as follows:

Authority: Secs. 2A, 2B, as added by sec. 702, 103 Stat. 413, 414 (12 U.S.C. 1422a, 1422b); sec. 6-7, 47 Stat. 727, 730, as amended (12 U.S.C. 1428-1427); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 207, 82 Stat. 692, as added by sec. 1a, 78 Stat. 1123, as amended (18 U.S.C. 207); sec. 602, 92 Stat. 2115, as amended (42 U.S.C. 5101, *et seq.*).

2. Section 932.3 is revised to read as follows:

#### § 932.3 Dividends.

The board of directors of each Bank may, with the approval of the Board, declare and pay a dividend from net earnings, including previously retained earnings, on the paid-in value of capital stock held during the dividend period. The dividend period may be quarterly, semiannually, or annually ending on March 31, June 30, September 30, or December 31. Dividends on such stock shall be computed without preference and only for the period such stock was outstanding during the dividend period. Dividends may be paid in cash or in the form of stock.

Dated: November 22, 1991.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 91-28514 Filed 11-25-91; 8:45 am]

BILLING CODE 6728-01-M

#### FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

#### Appraisal Subcommittee

#### 12 CFR Part 1102

[Docket No. AS91-4]

#### Rules of Practice for Temporary Waiver Proceedings

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Proposed rulemaking.

**SUMMARY:** The Appraisal Subcommittee ("ASC") of the Federal Financial Institutions Examination Council ("FFIEC") is publishing for comment proposed part 1102, which would set out the ASC's procedures relating to proceedings granting and terminating

temporary waivers under section 1119(b) <sup>1</sup> of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). <sup>2</sup> Congress intended title XI of FIRREA and the ASC, the FFIRAs and the Resolution Trust Corporation to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser.

**DATE:** Comments must be received on or before December 28, 1991.

**ADDRESSEE:** Persons wishing to submit written comments should file them with Edwin W. Baker, Executive Director, Appraisal Subcommittee, 1776 G Street, NW., suite 850B, Washington, DC 20006. All comment letters should refer to Docket No. AS91-4. All comments received will be available for public inspection and copying at the above location.

**FOR FURTHER INFORMATION CONTACT:** Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel, at (202) 357-0133, Appraisal Subcommittee, 1776 G Street, NW., Suite 850B, Washington, DC 20006.

#### SUPPLEMENTAL INFORMATION:

#### I. Introduction

On August 9, 1989, Congress adopted FIRREA, including sections 1102 <sup>3</sup> of title XI, which established the ASC and placed it within the FFIEC. The ASC consists of representatives appointed by the heads of the Federal Financial Institutions Regulatory Agencies ("FFIRA") <sup>4</sup> and the Department of Housing and Urban Development. Congress intended title XI of FIRREA and the ASC, the FFIRAs and the Resolution Trust Corporation ("RTC") to protect federal financial and public policy interests <sup>5</sup> in real estate-related

<sup>1</sup> 12 U.S.C. 3348(b) (1990).

<sup>2</sup> Public Law 101-73, 103 Stat. 183 (1989).

<sup>3</sup> 12 U.S.C. 3310 (1990).

<sup>4</sup> The FFIRAs are "the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration," section 1122(9) of title XI, 12 U.S.C. 3350(9) (1990).

<sup>5</sup> Title XI's general purpose is "to provide that Federal financial and public policy interests . . . will be protected by requiring that [certain] real estate appraisals are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision," section 1101 of title XI, 12 U.S.C. 3331 (1990).

financial transactions<sup>4</sup> requiring the services of an appraiser.<sup>7</sup>

The ASC has several statutory duties under title XI. First, it must monitor the appraisal regulations adopted by the FFIRAs and the RTC (collectively, "Agencies"). Those regulations set out appraisal standards for federally related transactions<sup>4</sup> and define those federally related transactions requiring the services of a State certified or State licensed appraiser. Second, the ASC must monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation. Third, the ASC must monitor each State's certification and licensing programs for real estate appraisers<sup>8</sup> and must review each State's compliance with the requirements of title XI. It also is authorized by title XI to take action against non-complying States.<sup>10</sup>

## II. Statutory Authority

After December 31, 1991, all financial institutions must use State licensed or certified appraisers, as appropriate, in federally related transactions.<sup>11</sup> Thus, each State ideally should have in place at that time its entire regulatory scheme for certifying, licensing and supervising appraisers.

Section 1119(b) of title XI, however, provides the ASC and the States with a degree of flexibility in dealing with extraordinary circumstances that may occur at any time after December 31st. This section enables the ASC to waive, on a temporary basis and with the FFIEC's approval, any State certification or licensing requirement on a written finding that: (1) "There is a scarcity of

certified or licensed appraisers to perform appraisals in connection with federally related transactions"; and (2) that the scarcity is "leading to inordinate delays in the performance of such appraisals."<sup>12</sup> Either a State in compliance with title XI or the ASC can make a written "scarcity/delay" finding. A State, however, cannot grant or deny a waiver under section 1119(b); that authority belongs only to the ASC. Congress intended that the ASC exercise this waiver authority "cautiously."<sup>13</sup> Temporary waivers terminate when the ASC "determines that such inordinate delays have been eliminated."

While the Section speaks clearly to the ASC and the States, it does not explicitly limit the universe of persons who may either request that the ASC provide temporary waiver relief or provide information to the ASC that could lead to the ASC granting temporary waiver relief on its own initiative. Therefore, the ASC encourages the Agencies, their respective regulated financial institutions, and other persons or institutions to submit to the ASC critical information respecting appraiser scarcities and delays occurring in the States.<sup>14</sup> In connection with those informational submissions, they also may request that the ASC exercise its discretionary authority to provide temporary waiver relief. The ASC will consider such submissions and requests in determining whether it should initiate a temporary waiver proceeding.

## III. Description of the Proposed Rule

Proposed rule 1102 provides a specific procedure for handling section 1119(b) waiver proceedings. The ASC tailored the proposal to afford expeditious administrative processing of these proceedings, while, at the same time, providing interested parties with an opportunity to participate meaningfully in the process. The ASC intends to work closely with the States to assure that temporary waivers will provide

sufficient relief. In return, the ASC expects requests for waiver relief to be designed as narrowly as possible.

Proposed rule 1102 sets out a highly streamlined procedure for processing temporary waivers. Upon the ASC's proper receipt of a request<sup>15</sup> or when the ASC on its own initiative determines to commence a temporary waiver proceeding, the ASC must publish promptly in the Federal Register a notice containing a concise general statement of the nature and the basis for the waiver. The notice must request written comments from interested members of the public for a 30 calendar-day period. The ASC has at most 45 calendar days from the notice's publication within which to issue an order either granting or denying a waiver. The ASC can grant or deny a waiver in whole, in part, and upon specified terms and conditions, including provisions for the termination of the order.<sup>16</sup> The ASC must discuss in the order the reasons for its finding and note that the ASC will be preparing appropriate notifications regarding the terms and conditions of the temporary waiver order to the Agencies for dissemination to their respective regulated lending institutions should the order become effective. An ASC temporary waiver relief order will not become effective until the FFIEC concurs with the ASC's action. The order then would be published promptly in the Federal Register.<sup>17</sup>

Proposed rule 1102.2 is central to the waiver procedure. It describes the specific information needed by the ASC for granting or denying a temporary waiver request. A request must set out fully and accurately:

- (1) The requirement or requirements from which relief is being sought;
- (2) A description of all significant problems currently being encountered in efforts to comply with title XI;
- (3) The nature of the scarcity of certified or licensed appraisers;
- (4) The extent of the delays anticipated or experienced in obtaining the services of certified or licensed appraisers;
- (5) The reasons why the requester believes that the requirement or requirements are causing the scarcity of

<sup>10</sup> The ASC will not consider a request from a State received unless it contains certain information. See the following paragraph and proposed rule 1102.2.

<sup>11</sup> For example, the waiver order may include language automatically terminating its effectiveness as of the earlier of a specific date or upon the State's certification that the pertinent scarcities and inordinate delays have been eliminated.

<sup>12</sup> Section 1119(b) of title XI, 12 U.S.C. 3348(b) (1990), requires FFIEC approval of any ASC decision to issue a waiver.

<sup>4</sup> See section 1121(5) of title XI, 12 U.S.C. 3350(5) (1990) for the definition of "real estate-related financial transaction."

<sup>7</sup> The FFIRAs and the RTC have adopted appraisal regulations that, among other things, clarify the phrase "requires the services of an appraiser." See, e.g., the appraisal regulations of the FDIC at 12 CFR 323.3(a) (1991).

<sup>8</sup> See section 1121(4) of title XI, 12 U.S.C. 3350(4) (1990), which defines a "federally related transaction."

<sup>9</sup> The ASC is required to "monitor State appraiser certifying and licensing agencies for the purpose of determining whether the agency's policies, practices, and procedures are consistent with [title XI], section 1119(a) of title XI, 12 U.S.C. 3347(a) (1990). See, also, section 1103(a)(1) of title XI, 12 U.S.C. 3332(a)(1) (1990). Each State with an appraiser certifying and licensing agency is responsible for transmitting to the Subcommittee a roster of these individuals, along with an annual registry fee. The Subcommittee must maintain a national registry of all state certified and licensed appraisers who are eligible to perform appraisals in federally related transactions.

<sup>10</sup> See section 1118 of title XI, 12 U.S.C. 3347 (1990).

<sup>11</sup> See section 1119(a) of title XI, 12 U.S.C. 3348(a), and 56 FR 20002 (May 1, 1991) and 29883 (June 28, 1991).

<sup>12</sup> A scarcity leading to an inordinate service delay can occur in a specific geographical area or area and in a service segment. For example, Black, White and Green Counties and Large City in State "A" are experiencing a scarcity of State certified appraisers leading to inordinate delays in obtaining appraisals of residential properties of over \$1 million.

<sup>13</sup> House Comm. on Banking, Finance and Urban Affairs, Report Together With Additional Supplemental Minority, Individual, and Dissenting Views, Financial Institutions Reform, Recovery, and Enforcement Act of 1988, H.R. Rep. No. 101-64 Part 1, 101st Cong., 1st Sess., at 483-83.

<sup>14</sup> They are encouraged to participate in the temporary waiver process by filing comments with the ASC respecting proposed temporary waiver actions.

certified or licensed appraisers and the inordinate delays in obtaining needed appraiser services; and

(6) A specific plan for expeditiously alleviating the scarcity and the service delays.

A requester must provide this information fully and accurately. If a requester fails to do so, the ASC will not consider the request "received" for processing,<sup>18</sup> and the proposal's deadlines for action will not be triggered. Other persons requesting relief or providing information to the ASC respecting scarcities and inordinate service delays under proposed rule 1102.3 also should address these items in their documents. While ASC acceptance of informational submissions from other persons cannot be "received" and will not trigger the proposal's deadlines for action, the ASC must consider them in determining whether to initiate a temporary waiver proceeding.<sup>19</sup>

Proposed rule 1102 also enables the ASC to terminate a waiver whenever the ASC finds that: (1) The "inordinate delays" in obtaining the services of a State licensed or certified appraiser no longer exist; or (2) the terms and conditions of the waiver order are not being satisfied. The ASC must publish a finding of waiver termination promptly in the *Federal Register* and request public comment on that finding for a 30-day period. Absent further ASC action to the contrary, the finding will become final ten days after the close of the comment period. During this ten-day period, the ASC will prepare appropriate notifications regarding the terms and conditions of the temporary waiver finding to the Agencies for dissemination to their respective regulated lending institutions. The ASC will notify the FFIEC about a proposed waiver termination.

#### IV. Interim Temporary Waiver Procedures

The ASC has reason to believe that, notwithstanding good faith efforts to comply fully with title XI by the Title's January 1, 1992 full implementation date, one or more States in all likelihood will be requesting temporary waiver relief between now and the final adoption of proposed rule 1102. During this interim period, the ASC will accept and consider requests for temporary waiver

relief. Moreover, the ASC will accept informational submissions respecting the availability of State licensed or certified appraisers in the States. To facilitate this process, the ASC asks requesters and submitters to use the criteria in proposed rule 1102.2 as a guideline in formulating their documents. This should greatly assist (1) requesters in drafting well focused waiver requests during this critical transitional period and (2) the ASC in determining whether to initiate temporary waiver proceedings.

During this period, the ASC will retain its procedural flexibility under section 1119(b) in responding to written temporary waiver requests and will not be bound formally by the proposed rule's time frames and other procedural requirements. That is, until the ASC finally adopts rule 1102, the ASC only must comply with section 1119(b)'s provisions, *i.e.*, determining whether the appropriate statutory tests for relief have been met, issuing a written finding and obtaining FFIEC concurrence. Nothing in title XI, and in particular section 1119(b) or any other provision of federal law, specifically requires the ASC to propose and adopt written procedures governing the process for granting or denying temporary waivers. The ASC, however, believes that putting in place formal temporary waiver procedures makes good regulatory sense. Such procedures should: (1) Ensure the uniform procedural treatment of temporary waiver requests; (2) provide substantive guidance in formulating those requests; and (3) provide the expeditious and efficient resolution of requests.

#### V. Regulatory Flexibility Act Statement

Pursuant to section 605(b) of the Regulatory Flexibility Act, the ASC certifies that this notice of proposed rulemaking is not expected to have a significant adverse economic impact on a substantial number of small business entities. Accordingly, a regulatory flexibility analysis is not required.

Proposed rule 1102 would set out the ASC's procedures relating to proceedings granting and terminating temporary waivers under section 1119(b) of title XI. This section of FIRREA generally requires the ASC to make written findings and to determine that such findings satisfy the stated criteria for granting a waiver.

The purpose of the proposed rule is to secure a just and orderly determination of administrative proceedings. Temporary waiver proceedings by their very nature provide relief for small and large business entities and individuals.

#### VI. Executive Order 12291 Statement

The ASC has determined that this notice of proposed rulemaking does not constitute a "major rule" within the meaning of Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required on the grounds that this notice of proposed rulemaking, if adopted: (1) Would not have an annual effect on the economy of \$100 million or more; (2) would not result in a major increase in the cost of financial institution operations or governmental supervision; and (3) would not have a significant adverse effect on competition (foreign or domestic), employment, investment, productivity or innovation, within the meaning of the Executive Order.

#### VII. List of Subjects in 12 CFR Part 1102

Appraisers, Proceedings; State Appraisal Regulatory Agencies; Waiver

#### VIII. Text of the Proposed Rule

Title 12 of the Code of Federal Regulations is amended as follows:

1. By adding new part 1102 to read as follows:

#### PART 1102—APPRAISAL REGULATION

##### Subpart A—Temporary waiver requests

###### Sec.

1102.1 Authority, purpose and scope.

1102.2 Requirements for requests.

1102.3 Other requests and information submissions.

1102.4 Notice and comment.

1102.5 Subcommittee determination.

1102.6 Waiver extension.

1102.7 Waiver termination.

##### Subpart B—[Reserved]

Authority: 12 U.S.C. 3348(b), unless otherwise noted.

##### Subpart A—Temporary Waiver Requests

###### § 1102.1 Authority, purpose and scope.

(a) *Authority.* This subpart is issued under section 1119(b) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. 3348(b)).

(b) *Purpose and scope.* This subpart prescribes rules of practice and procedure governing temporary waiver proceedings under section 1119(b) of title XI of FIRREA (12 U.S.C. 3348(b)). These procedures apply to whenever a state appraiser regulatory agency requests the Subcommittee for a waiver of any requirement relating to certification or licensing of a person to perform appraisals under title XI of FIRREA. They also apply whenever the

<sup>18</sup> The ASC and its staff intends to work closely with requesters to provide all relevant information.

<sup>19</sup> Proposed rule 1102.3 enables State Appraiser Regulatory Agencies to request in writing an extension of an existing temporary waiver order. To ensure uniform processing and sufficient program discipline, an extension request will be processed exactly like a new temporary waiver request.

Subcommittee, based on sufficient, credible information or requests received from other persons or entities, initiates a temporary waiver proceeding.

**§ 1102.2 Requirements for requests.**

A request will not be deemed received by the Subcommittee unless it fully and accurately sets out:

(a) If the requester is a State Appraiser Regulatory Agency, a written, duly authorized determination by the State Appraiser Regulatory Agency that there is a scarcity of State licensed or State certified appraisers leading to inordinate delays in obtaining appraisals in federally related transactions. In the absence of such a written determination, a State Appraiser Regulatory Agency must ask the ASC for such a determination. A requester other than a State Appraiser Regulatory Agency may ask the ASC for such a determination;

(b) The requirement or requirements from which relief is being sought;

(c) A description of all significant problems currently being encountered in efforts to comply with title XI;

(d) The nature of the scarcity of certified or licensed appraisers (including supporting documentation);

(e) The extent of the delays anticipated or experienced in obtaining the services of certified or licensed appraisers (including supporting documentation);

(f) The reasons why the requester believes that the requirement or requirements are causing the scarcity of certified or licensed appraisers and the service delays; and

(g) A specific plan for expeditiously alleviating the scarcity and the service delays.

**§ 1102.3 Other requests and information submissions.**

The Federal Financial Institutions Regulatory Agencies and the Resolution Trust Corporation, their respective regulated financial institutions, and other persons or institutions may submit the information requested in § 1102.2 and may ask that the Subcommittee exercise its discretionary authority to initiate a temporary waiver proceeding. The Subcommittee shall consider these submissions and requests in exercising that authority. When the Subcommittee initiates a temporary waiver proceeding, these documents shall correspond to a received request under § 1102.4 of this subpart.

**§ 1102.4 Notice and comment.**

The Subcommittee shall publish promptly in the Federal Register a notice respecting: (a) The received request; or

(b) The Subcommittee order initiating a temporary waiver proceeding. The notice or initiation order shall contain a concise general statement of the nature and basis for the action and shall give interested persons 30 calendar days from its publication in which to submit written data, views and arguments.

**§ 1102.5 Subcommittee determination.**

Within 45 calendar days of the date of the publication of the notice or initiation order in the Federal Register, the Subcommittee, by order, shall either grant or deny a waiver in whole, in part, and upon specified terms and conditions, including provisions for waiver termination. Such order shall respond to comments received from interested members of the public and shall provide the reasons for the Subcommittee's finding. The order shall be published promptly in the Federal Register, which, in the case of an approval order, shall be after Federal Financial Institution Examination Council concurrence. The Subcommittee's approval order shall be effective only upon Examination Council concurrence.

**§ 1102.6 Waiver extension.**

A State Appraiser Regulatory Agency may request an extension of temporary waiver relief by forwarding an additional written request to the Subcommittee. This additional request shall be subject to all the requirements of this subpart.

**§ 1102.7 Waiver termination.**

The Subcommittee at any time may terminate a waiver order on the finding that: (a) The inordinate delays in obtaining the services of certified or licensed appraisers no longer exist; or (b) The terms and conditions of the waiver order are not being satisfied.

The Subcommittee shall publish a finding of waiver termination promptly in the Federal Register, giving interested persons 30 calendar days from publication in which to submit written data, views and arguments. In the absence of further Subcommittee action to the contrary, the finding of waiver termination automatically shall become final ten calendar days after the close of the comment period.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. Dated: November 19, 1991.

Diana L. Garmus,

Acting Chairperson.

[FR Doc. 91-28208 Filed 11-25-91; 8:45 am]

BILLING CODE 6715-01-0

**SMALL BUSINESS ADMINISTRATION**

**13 CFR Part 121**

**Small Business Size Regulations; Waiver of the Nonmanufacturer Rule; Correction**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of intent to waive the "Nonmanufacturer Rule" for four wheel utility trucks; correction and extension of comment period.

**SUMMARY:** SBA is correcting an error in the Product and Service Code (PSC) listing for four wheel drive utility trucks in its "Notice of intent to waive the Nonmanufacturer Rule for multiple products" which appeared in the Federal Register on October 29, 1991 (56 FR 55839). The correct PSC for four wheel utility trucks in column 3 is 2320. In addition, the comment period is extended until December 11, 1991.

**DATE:** The comment period deadline for four wheel utility trucks only is extended to December 11, 1991.

**FOR FURTHER INFORMATION CONTACT:** James Fairbairn, Industrial Specialist, (202) 205-7308.

Dated: November 15, 1991.

Gene VanArsdale,

Acting Chairman, Size Policy Board.

[FR Doc. 91-28133 Filed 11-25-91; 8:45 am]

BILLING CODE 8325-01-0

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

(Docket No. 91-NM-31-AD)

**Airworthiness Directives; Dassault Aviation Model Mystere Falcon 900 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** This notice proposes to amend an earlier proposed airworthiness directive (AD), applicable to certain Avions Marcel Dassault-Breguet Aviation Model Mystere Falcon 900 series airplanes, which would have required repetitive inspections to detect clogged drains in the box structures surrounding the flight controls at frame 25; modifications of the cross-section of the outlet of the drain stub; and the installation of a protective screen on drains on each side of the center beam.

# Appraisal Subcommittee

## 1991 Annual Report

**FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL**

**APPRAISAL SUBCOMMITTEE**

**12 CFR Part 1102: APPRAISAL REGULATION**

[Docket No. AS91-5]

**RULES OF PRACTICE FOR PROCEEDINGS**

**AGENCY:** Appraisal Subcommittee, Federal Financial Institutions Examination Council.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Appraisal Subcommittee ("ASC") of the Federal Financial Institutions Examination Council ("FFIEC") is publishing for comment proposed Subpart B, Rules of Practice For Proceedings, under already proposed Part 1102, Appraisal Regulation.<sup>1</sup> The new Subpart is designed to govern non-recognition proceedings under § 1118<sup>2</sup> of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA")<sup>3</sup> and "other proceedings necessary to carry out the purposes of [Title XI]" under § 1119(c)<sup>4</sup> of that Title. Congress intended Title XI of FIRREA and the ASC, the Federal Financial Institutions Regulatory Agencies ("FFIRAs")<sup>5</sup> and the Resolution Trust Corporation

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<sup>1</sup>Proposed Part 1102, Subpart A, provides procedures for temporary waiver proceedings under §1119(b) of Title XI, 12 U.S.C. § 3348(b) (1990). Subpart A was published for comment in 56 F.R. 59899 (November 26, 1991).

<sup>2</sup>12 U.S.C. § 3357 (1990).

<sup>3</sup>Pub. L. 101-73, 103 Stat. 183 (1989).

<sup>4</sup>12 U.S.C. § 3348(c) (1990).

<sup>5</sup>The FFIRAs are "the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration." Section 1122(6) of Title XI, 12 U.S.C. § 3350(6) (1990).

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(collectively "Agencies") to protect federal financial and public policy interests in real estate-related financial transactions<sup>6</sup> requiring the services of an appraiser.<sup>7</sup>

**DATES:** Comments must be received on or before [Insert date 30 days after date of publication in the **FEDERAL REGISTER**].

**ADDRESSES:** Persons wishing to submit written comments should file the original and one copy with Edwin W. Baker, Executive Director, Appraisal Subcommittee, 1776 G Street, N. W., Suite 850B, Washington, D.C. 20006. All comment letters should refer to Docket No. AS91-05. All comments received will be available for public inspection and copying at the above location.

**FOR FURTHER INFORMATION CONTACT:** Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel, at (202) 357-0133, Appraisal Subcommittee, 1776 G. Street, N.W., Suite 850B, Washington, D.C. 20006.

**SUPPLEMENTAL INFORMATION:**

**I. Introduction**

On August 9, 1989, Congress adopted FIRREA, including § 1102<sup>8</sup> of Title XI, which established the ASC and placed it within the FFIEC. The ASC consists of representatives appointed by the heads of the FFIRAs and the Department of Housing and Urban Development. Congress intended Title XI of FIRREA, the ASC and the Agencies to protect

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<sup>6</sup>See § 1121(5) of Title XI, 12 U.S.C. § 3350(5) (1990) for the definition of "real estate-related financial transaction."

<sup>7</sup>The FFIRAs and the RTC have adopted appraisal regulations that, among other things, clarify the phrase "requires the services of an appraiser." See, e.g., the appraisal regulations of the FDIC at 12 CFR § 323.3(a) (1991).

<sup>8</sup>12 U.S.C. § 3310 (1990).

federal financial and public policy interests<sup>9</sup> in real estate-related financial transactions requiring the services of an appraiser.

The ASC has several statutory duties under Title XI. First, it must monitor the appraisal regulations adopted by the FFIRAs and the RTC (collectively, "Agencies"). Those regulations set out appraisal standards for federally related transactions<sup>10</sup> and define those federally related transactions requiring the services of a State certified or State licensed appraiser. Second, the ASC must monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation. Third, the ASC must monitor each State's certification and licensing programs for real estate appraisers<sup>11</sup> and must review each State's compliance with the requirements of Title XI. It also is authorized by Title XI to take action against non-complying States.<sup>12</sup>

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<sup>9</sup>Title XI's general purpose is "to provide that Federal financial and public policy interests . . . will be protected by requiring that [certain] real estate appraisals are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision." Section 1101 of Title XI, 12 U.S.C. § 3331 (1990).

<sup>10</sup>See § 1121(4) of Title XI, 12 U.S.C. § 3350(4) (1990), which defines a "federally related transaction."

<sup>11</sup>The ASC is required to "monitor State appraiser certifying and licensing agencies for the purpose of determining whether the . . . agency's policies, practices, and procedures are consistent with [Title XI]." Section 1118(a) of Title XI, 12 U.S.C. § 3347(a) (1990). See, also, § 1103(a)(1) of Title XI, 12 U.S.C. § 3332(a)(1) (1990). Each State with an appraiser certifying and licensing agency is responsible for transmitting to the Subcommittee a roster of these individuals, along with an annual registry fee. The Subcommittee must maintain a national registry of all state certified and licensed appraisers who are eligible to perform appraisals in federally related transactions.

<sup>12</sup>See § 1118 of Title XI, 12 U.S.C. § 3347 (1990).



## II. Statutory Authority

### *A. Non-recognition Proceedings*

Pursuant to § 1118<sup>13</sup> of Title XI, financial institutions,<sup>14</sup> the Agencies, the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") generally must accept appraisals in federally related transactions performed by persons licensed or certified by a State Appraiser Regulatory Agency ("SARA"). In monitoring State compliance with Title XI, the ASC, however, can "disapprove" or "not recognize appraiser certifications and licenses from States whose appraisal policies, practices or procedures are found to be inconsistent with [Title XI]."<sup>15</sup>

Paragraph (b) of § 1118 describes what is meant by "non-recognition" in the context of Title XI and sets out the grounds on which the ASC can order non-recognition. If the ASC were to order non-recognition of a SARA's certifications and licenses, the ASC, all Federal financial institutions, and the Agencies, together with FNMA and FHLMC, could not rely on appraisals prepared by persons who are licensed or certified to appraise federally related transactions within the SARA's jurisdiction. In effect, the State's real estate market in federally related transactions would be suspended and Federally-insured banks and credit unions would have to bring in out-of-State certified or licensed appraisers (from complying

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<sup>13</sup> *Id.*

<sup>14</sup>A "financial institution" is "an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act." Section 1121(7) of Title XI, 12 U.S.C. § 3350(7) (1990).

<sup>15</sup>Section 1118(a) of Title XI, 12 U.S.C. § 3347(a) (1990).

States) to perform needed appraisals. The ASC can order non-recognition only if it makes a written finding that one or more of the following conditions are satisfied:

- (1) the [SARA] fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to [Title XI];
- (2) the [SARA] is not granted authority by the State which is adequate to permit the agency to carry out its functions under [Title XI]; or
- (3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of [Title XI].<sup>16</sup>

Paragraph (c) of § 1118<sup>17</sup> provides a State with certain due process rights before the ASC can act not to recognize its appraiser certifications and licenses. First, the ASC must provide the offending SARA with "a written notice of [the ASC's] intention not to recognize the State's certified or licensed appraisers."<sup>18</sup> Second, the ASC must give the SARA "ample opportunity to provide rebuttal information or to correct the conditions causing the refusal."<sup>19</sup> Last, the ASC must "adopt written procedures for . . . [non-recognition] actions."<sup>20</sup>

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<sup>16</sup>Section 1118(b) of Title XI, 12 U.S.C. § 3347(b) (1990).

<sup>17</sup>12 U.S.C. § 3347(c) (1990).

<sup>18</sup>Section 1118(c)(1), 12 U.S.C. § 3347(c)(1) (1990).

<sup>19</sup>Section 1118(c)(2), 12 U.S.C. § 3347(c)(2) (1990).

<sup>20</sup>Section 1118(c)(3), 12 U.S.C. § 3347(c)(3), specifically makes ASC non-recognition decisions subject to judicial review.

*B. "Other Proceedings" Under § 1119(c) of Title XI*

Section 1119(c)<sup>21</sup> requires the ASC to "report any action of a State certified or licensed appraiser that is contrary to the purposes of [Title XI] . . . to the appropriate [SARA] for a disposition of the subject of the referral [sic]." The SARA then must provide the ASC "with a report on its disposition of the matter referred."<sup>22</sup> After receiving the report, the ASC "may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of [Title XI]."<sup>23</sup>

**III. Description of the Proposed Rule**

Subpart B of Part 1102 sets out a streamlined, yet balanced, procedure for dealing with proceedings under §§ 1118 and 1119(c) of Title XI. The proposed rules are specifically tailored to afford expeditious administrative processing of these proceedings, while at the same time assuring parties to the proceedings sufficient due process protections. For example, parties are provided with the right to counsel, notice of impending ASC actions, and an ample opportunity to contest ASC allegations. The proposed rules also contain provisions implementing the ASC's intention to make a good faith effort, whenever possible, to work out all disputes, problems, issues, misunderstandings and other difficulties both before and after the commencement of formal proceedings.

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<sup>21</sup>12 U.S.C. § 3348(c) (1990).

<sup>22</sup>Section 1119 also authorizes "any other Federal agency or instrumentality, or any federally recognized entity" to report questionable individual appraiser activities to SARAs and to receive disposition reports from the SARAs respecting those referrals.

<sup>23</sup>Only the ASC and "the agency or instrumentality" can take further action; a "Federally recognized entity" apparently cannot.

*A. Commencement of the proceeding/Notice*

The ASC may commence a proceeding under Subpart B by instructing the Secretary of the ASC<sup>24</sup> to provide the party, e.g., a State's SARA, with a written "Notice of Intention to Commence Proceeding."<sup>25</sup> The Notice of Intention must contain statements setting out: (1) the ASC's legal authority and jurisdiction; (2) the matters of fact and law constituting the grounds for the proceeding; and (3) a date no earlier than 21 calendar days<sup>26</sup> after the issuance of the Notice of Intention on which the information gathering phase of the proceeding will end.<sup>27</sup> The ASC must promptly publish the Notice of Intention in the Federal Register.

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<sup>24</sup>The Secretary is the ASC's Executive Director. See ASC's Rules of Operation, § 306(b), 56 F.R. 28561 (June 21, 1991), at 28562.

<sup>25</sup> See proposed Rules 1102.23, 1102.24, 1102.25 and 1102.26 for details regarding the requirements for the filing and service of papers by the ASC and by the other parties to the proceeding. In general, filing and service can be accomplished by personal service, delivery via reliable commercial courier, overnight delivery service, and the first class, registered, certified or express mail services of the U.S. Post Office. Filing and service is effective upon actual delivery for personal service or same-day commercial courier delivery and upon deposit or delivery to an appropriate point of collection for all other methods.

<sup>26</sup>Proposed Rule 1102.27 deals with computing time. Intermediate Saturdays, Sundays and legal holidays (as recognized in the District of Columbia) are included unless the time frame is seven days or less. The last day of a time period, if falling on a Saturday, Sunday or such a legal holiday, moves to the next day that is not a Saturday, Sunday or legal holiday. Half-day holidays are not holidays for time computation purposes. A party will have three days added to a prescribed period if the party is served via U.S. mail. The period will begin running when the item is deposited in the U.S. mail.

<sup>27</sup>The ASC can extend this date for good cause upon the written request of a party or on its own initiative. A notice respecting this extension must be published promptly in the Federal Register by the Secretary of the ASC.

*B. Election of Rebuttal or Notice Not To Contest*

Pursuant to proposed Rule 1102.34, a party has 15 days in which to file with the ASC Secretary a written Rebuttal or Notice of No Contest. In a Rebuttal, a party generally has to admit or deny specifically each allegation in the Notice of Intention. Allegations not denied are considered admitted.<sup>28</sup> Alternatively, a party may choose not to contest the allegations in the Notice of Intention and file a Notice of No Contest. By filing a Notice of No Contest, a party waives its right to rebut the ASC's allegations and the ASC is free to decide the matter as appropriate. Filing a Notice Not To Contest does not affect a party's right to judicial review.

*C. Briefs, memoranda or statements*

At any time between the commencement of the proceeding and the end of the proceeding's information gathering phase, any party to the proceeding and any other interested person may file with the ASC Secretary a written brief, memorandum or other statement providing the ASC with factual data and policy and legal arguments regarding its Notice of Intention. The Secretary shall receive these documents and place them in the public file of the proceeding.

*D. Oral presentations*

Between the commencement of the proceeding and seven calendar days before the end of the information gathering phase, any party to the proceeding may file with the Secretary a letter requesting that the Secretary schedule an opportunity for the party to give an oral presentation to the ASC. That letter should include the reasons why an oral presentation

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<sup>28</sup> The State also could admit and deny allegations in whole or in part.

is necessary. The Secretary must promptly forward the letter request to the Chairman of the ASC. The Chairman, after informally contacting other ASC members and the ASC's senior staff for their views, will instruct the Secretary to forward a letter to the party either: (1) scheduling a date and time for the oral presentation; or (2) declining the request and providing the reasons therefor. The party's letter and the ASC's response will be included in the proceeding's public file.

On the appropriate date and time, the party or his or her duly appointed representative (if any) will make the oral presentation before the ASC. Any ASC member may ask the party or the representative, as the case may be, pertinent questions relating to the content of the oral presentation.

An oral presentation shall be considered as an opportunity to offer, emphasize and clarify the facts, policies and laws concerning the proceeding. Oral presentations will not be recorded or otherwise transcribed. The ASC's Secretary, however, must enter into the proceeding's public file a memorandum summarizing the subjects discussed during the oral presentation.

*E. Other opportunities for issue clarification and settlement of actions*

The proposed rules provide the ASC and parties with several methods of focusing, shortening and settling a proceeding, even before the proceeding is launched by the ASC. Proposed Rule 1102.40 states that the ASC and its staff (as authorized by the ASC) have a general duty to provide parties an ample opportunity to work out problems by consent, by settlement or in some other manner. After a proceeding is commenced, proposed Rule 1102.35 enables any party at any time to submit to the Secretary, for the ASC's

consideration, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties and the parties at any time can agree to a stipulation of facts and a proposed order or decision, and can submit the stipulation and order or decision to the ASC for its approval. Finally, Proposed Rule 1102.29(c) provides a vehicle for the parties and designated members of the ASC and its staff to meet together, among other things, to simplify and clarify issues, enter into stipulations and admissions of fact, and to deal with "such other matters as may aid in the orderly disposition of the proceeding . . . ." Like oral presentations, conferences will not be recorded, and the Secretary must include in the public file a memorandum summarizing the results of the conference. Unless changed by the ASC, that memorandum will control the subsequent course of the proceeding.

*F. Ethical Considerations in Proceedings*

Proposed Rules 1102.30 and 1102.38 contain ethical considerations designed to comply with the spirit of the Administrative Procedure Act.<sup>29</sup> These provisions help to assure that the ASC proceedings are fair and impartial.

*G. ASC Decision*

The ASC must issue an order in the matter at a reasonable time after the close of the information gathering phase of the proceeding. The order must contain the ASC's findings of facts and conclusions of law and may contain such terms as conditions as the ASC deems appropriate. The Secretary must serve the order promptly on the parties and publish it in

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<sup>29</sup>See 12 U.S.C. §§ 556(b) and 557(d)(1) (1990).

the Federal Register. The ASC order is considered a final agency action from which judicial review can be taken.<sup>30</sup>

#### IV. Regulatory Flexibility Act Statement

Pursuant to section 605(b) of the Regulatory Flexibility Act, the ASC certifies that this notice of proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Proposed Rule 1102 is designed to govern non-recognition proceedings under § 1118<sup>31</sup> of Title XI and "other proceedings necessary to carry out the purposes of [Title XI]" under § 1119(c) of that Title. These sections of FIRREA generally require the ASC to adopt written procedures.

The purpose of the proposed rules is to secure a just and orderly determination of administrative proceedings. Non-recognition proceedings by their very nature do not directly involve small entities; they concern States and their appraiser regulatory agencies. Moreover, while "other action" under § 1119(c) conceptually could affect individual appraisers more directly, Congress intended the ASC to use this authority to ensure that SARAs appropriately discipline appraisers certified or licensed within their jurisdiction. Therefore, § 1119(c) actions also focus on States and their appraiser regulatory agencies.

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<sup>30</sup>See generally 5 U.S.C. ch. 7 (1990), which deals with the right to judicial review of administrative agency actions.

<sup>31</sup>12 U.S.C. § 3357 (1990).



**V. Executive Order 12291 Statement**

The ASC has determined that this notice of proposed rulemaking does not constitute a "major rule" within the meaning of Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required on the grounds that this notice of proposed rulemaking, if adopted: (1) would not have an annual effect on the economy of \$100 million or more; (2) would not result in a major increase in the cost of financial institution operations or governmental supervision; and (3) would not have a significant adverse effect on competition (foreign or domestic), employment, investment, productivity or innovation, within the meaning of the Executive Order.

**VI. List of Subjects in 12 CFR Chapter 11**

Appraisers, Proceedings, State Appraiser Regulatory Agencies; Non-recognition.

**VII. Text of the Proposed Rule**

Title 12 of the Code of Federal Regulations is amended as follows:

1. By adding new subpart B to part 1102 to read as follows:

**PART 1102--APPRAISAL REGULATION**

**Subpart A - No change.**

**Subpart B - RULES OF PRACTICE FOR PROCEEDINGS**

**Sec.**

1102.20 Authority, purpose and scope.

1102.21 Definitions.

1102.22 Appearance and practice before the Subcommittee.

1102.23 Formal requirements as to papers filed.

- 1102.24 Filing requirements.
- 1102.25 Service.
- 1102.26 When papers are deemed filed or served.
- 1102.27 Computing time.
- 1102.28 Briefs, memoranda and statements.
- 1102.29 Documents and exhibits in proceedings public.
- 1102.30 Conduct of proceedings.
- 1102.31 Rules of evidence.
- 1102.32 Burden of proof.
- 1102.33 Notice of Intention to Commence A Proceeding.
- 1102.34 Rebuttal or Notice Not To Contest.
- 1102.35 Opportunity for informal settlement.
- 1102.36 Prohibition of motions.
- 1102.37 Oral Presentations.
- 1102.38 Decision of the Subcommittee and judicial review.
- 1102.39 Compliance activities.
- 1102.40 Duty to cooperate.

1. The authority citation for Subpart A is as follows:

**Authority:** 12 U.S.C. 3332, 3335, 3347, and 3348)(c), unless otherwise noted.

Subpart A - No change

Subpart B - Rules of Practice For Proceedings

**§ 1102.20 Authority, purpose, and scope.**

(a) *Authority.* This subpart is issued under sections 1103, 1106, 1118 and 1119(c) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. §§ 3332, 3335, 3347, and 3348)(c)).

(b) *Purpose and scope.* This subpart prescribes rules of practice and procedure governing non-recognition proceedings under section 1118 of Title XI (12 U.S.C. 3347); and other proceedings necessary to carry out the purposes of Title XI under section 1119 (c) of Title XI (12 U.S.C. 3348(c)).

**§ 1102.21 Definitions.**

As used in this subpart:

(a) "Subcommittee" or "ASC" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, as established under section 1011 of Title XI (12 U.S.C. 3310).

(b) "Party" means the ASC or a person or agency named or admitted as a party, including, when appropriate, persons appearing in the proceeding under Section 1103.22 of this subpart.

(c) "Respondent" means any party other than the ASC.

(d) "Secretary" means the Secretary of the ASC under its Rules of Operation.

**§ 1102.22 Appearance and practice before the Subcommittee.**

(a) *By attorneys and notice of appearance.* . Any person who is a member in good standing of the bar of the highest court of any State or of the District of Columbia, or of any possession, territory, or Commonwealth of the United States, may represent others

before the ASC upon filing with the Secretary a written notice of appearance stating that he or she is currently qualified as provided in this paragraph and is authorized to represent the particular party on whose behalf he or she acts.

(b) **By non-attorneys.** An individual may appear on his or her own behalf. A member of a partnership may represent the partnership and an officer, director or employee of any government unit, agency, institution, corporation or authority may represent that unit, agency, institution, corporation or authority. The partner, officer, director or employee must file with the Secretary of the ASC a written statement that he or she has been duly authorized by the partnership, government unit, agency, institution, corporation or authority to act on its behalf. The ASC may require the representative to attach to the statement appropriate supporting documentation, such as a corporate resolution.

(c) **Conduct during proceedings.** All participants in a proceeding shall conduct themselves with dignity and in an orderly and ethical manner. The attorney or other representative of a party shall make every effort to restrain a client from improper conduct in connection with a proceeding. Improper language or conduct, refusal to comply with directions, use of dilatory tactics, or refusal to adhere to reasonable standards of orderly and ethical conduct constitute grounds for immediate exclusion from the proceeding at the direction of the ASC.

**§ 1102.23 Formal requirements as to papers filed.**

(a) **Form.** All papers filed under this subpart must be double-spaced and printed or typewritten on 8-1/2" x 11" paper. All copies shall be clear and legible.

(b) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the ASC and of the filing party, the title and/or docket number of the proceeding, and the subject of the particular paper.

(c) *Party names, signatures, certificates of service.* All papers filed must set forth the name, address and telephone number of the counsel or party making the filing, must be signed by the counsel or party, and must be accompanied by a certification setting forth when and how service has been made on all other parties.

(d) *Copies.* Unless otherwise specifically provided in the notice of proceeding or by the ASC during the proceeding, an original and one copy of all documents and papers shall be furnished to the Secretary.

**§ 1102.24 Filing requirements.**

(a) **Filing.** All papers or exhibits filed with the ASC in any proceeding shall be filed with the Secretary, Appraisal Subcommittee, 1776 G Street, NW Suite 850B, Washington, DC 20006.

(b) **Manner of filing.** Unless otherwise specified by the ASC, filing may be accomplished by :

- (1) Personal service;
- (2) Delivering the papers to a reliable commercial courier service, overnight delivery service, or to the U.S. Post Office for Express Mail delivery; and
- (3) Mailing the papers by first class, registered, or certified mail.

**§1102.25 Service.**

(a) **Methods.** A serving party shall use one or more of the following methods of service:

- (1) Personal service;
  - (2) Delivering the papers to a reliable commercial courier service, overnight delivery service, or to the U.S. Post Office for Express Mail delivery; and
  - (3) Mailing the papers by first class, registered, or certified mail.
- (b) **To whom the Subcommittee and other parties should direct service.** If a party has not appeared in the proceeding in accordance with section 1102.22 of this subpart, the ASC or any other party shall make service by any of the following methods:
- (1) By personal service;
  - (2) By delivery to a person of suitable age and discretion at the party's last known address;
  - (3) By registered or certified mail addressed to the party's last known address; or
  - (4) By any other manner reasonably calculated to give actual notice.
- (c) *By the Subcommittee.* All documents or papers required to be served by the ASC shall be served by the Secretary unless some other person shall be designated for such purpose by the ASC.
- (d) *By the respondent.* All papers filed in a proceeding under this subpart shall be served by a respondent by filing upon the Secretary and each party's counsel, or, if any party is not so represented, then upon such party. Such service may be made by any of the methods specified in paragraphs (a) and (b) of this section.

**§ 1102.26 When papers are deemed filed or served.**

- (a) **Effectiveness.** Filing and service are deemed effective:

- (1) For personal service or same-day commercial courier delivery, upon actual delivery; and
- (2) For overnight commercial delivery service, U.S. Express Mail delivery, or first class, registered, or certified mail, upon deposit in, or delivery to, an appropriate point of collection.
- (3) Modification. The effective times for filing and service in paragraphs(a of this section may be modified by the ASC in the case of filing or by agreement of the parties in the case of service.

**§ 1102.27 Computing time.**

(a) *General rule.* In computing any period of time prescribed or allowed by this subpart, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed is to be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation unless the time within which the act is to be performed is seven days or less, intermediate Saturdays, Sundays, and Federal holidays are not included.

(b) *For service and filing responsive papers.* Whenever a time limit is measured by a prescribed period from the service of any notice or paper, the applicable time periods are calculated as follows:

- (1) If service is made by first class, registered or certified mail, add three days to the prescribed period; and

(2) If service is made by express mail or overnight delivery service, add one day to the prescribed period.

**§1102.28 Briefs, memoranda and statements.**

All briefs, memoranda and statements shall be confined to the particular matters in issue.

Answering briefs, memoranda or statements may be filed only upon the permission of the ASC.

**§ 1102.29 Documents and exhibits in proceedings public.**

Unless and until otherwise ordered by the ASC or unless otherwise provided by statute or by ASC regulation, all documents, papers and exhibits filed in connection with any proceeding, other than those that may be withheld from disclosure under applicable law, shall be placed by the Secretary in the proceeding's public file and will be available for public inspection at the address set out in § 1102.24 above.

**§1102.30 Conduct of proceedings.**

(a) *In general.*

(1) Unless otherwise provided in the notice of proceedings, all proceedings under this subpart shall be conducted as hereinafter provided.

(2) A Subcommittee member who deems himself or herself disqualified may at any time withdraw. Upon receipt of a timely and sufficient affidavit of personal bias or disqualification of such member, the ASC will rule on the matter as a part of the record and decision in the case.

(b) *Authority of Subcommittee and, in particular, its Chairperson.* The Chairperson of the ASC, in consultation with other members of the ASC whenever appropriate, shall have



complete charge of the proceeding and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings.

(c) *Conferences.* The ASC may on its own initiative or at the request of any party, direct all parties or counsel to meet with one or more duly authorized ASC members or staff at a specified time and place or to submit to the ASC or its designee suggestions in writing, for the purpose of considering any or all of the following:

- (1) Simplification and clarification of the issues;
- (2) Stipulations and admissions of fact and of the content and authenticity of documents;
- (3) Matters of which official notice will be taken; and
- (4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of persons submitting affidavits or other documents and exhibits which may be introduced into the record of the proceeding.

Such conferences will not be recorded, but the Secretary shall place in the proceeding's public file a memorandum summarizing the results of the conference. The results of the conference shall control the subsequent course of the proceedings, unless the ASC for good cause modifies those results and instructs the Secretary to place an amendatory memorandum to that effect in the public file.

(d) *Changes or extensions of time and changes of place of proceeding.* The ASC at any time may instruct the Secretary to publish a notice in the Federal Register providing time limits different from those specified in this subpart, and may, on its own initiative or for good

cause shown, change or extend any time limit prescribed by this subpart, including the date for ending the information gathering phase of the proceeding.

(e) *Call for further briefs, memoranda, statements; reopening of matters.* The ASC may call for the production of further information upon any issue, the submission of briefs, memoranda and statements, and, upon appropriate notice, may reopen any aspect of the proceeding at any time prior to a decision on the matter.

**§ 1102.31 Rules of evidence.**

(a) *In general.* (1) Except as is otherwise set forth in this section, relevant, material and reliable evidence that is not unduly repetitive is admissible to the fullest extent authorized by the Administrative Procedure Act and other applicable law.

(2) Evidence that would be admissible under the Federal Rules of Evidence is admissible in a proceeding conducted under this subpart.

(3) Evidence that would be inadmissible under the Federal Rules of Evidence may not be deemed or ruled inadmissible in a proceeding conducted under this subpart if such evidence is relevant, material, reliable and not unduly repetitive.

(b) *Stipulations.* Independently of conference results as provided by § 1102.29(c), any party may stipulate in writing as to any relevant matters of fact, law, or the authenticity of any relevant documents. The Secretary shall place such stipulations in the public file and shall be binding on the parties with respect to the matters therein stipulated.

(c) *Official notice.* All matters officially noticed by the ASC shall appear in the public file.

**§ 1102.32 Burden of proof**

The ultimate burden of proof shall be on the respondent. The burden of going forward with a *prima facie* case shall be on the ASC.

**§ 1102.33 Notice of Intention To Commence A Proceeding.**

The ASC shall instruct the Secretary or other designated officer acting for the ASC to publish in the Federal Register a Notice of Intention To Commence A Proceeding ("Notice of Intention"). The Notice of Intention shall be served upon the party or parties to the proceeding. The ASC may give whatever additional notice is deemed appropriate in any given proceeding. The Notice of Intention shall state the legal authority and jurisdiction under which the proceeding is to be held; shall contain, or incorporate by appropriate reference, a specific statement of the matters of fact or law constituting the grounds for the proceeding; and shall state a date no sooner than 21 calendar days after service of the Notice of Intention is made. The information gathering phase of the proceeding will end on this date, unless it is extended or changed under this subpart. The ASC may amend a Notice of Intention in any manner and to the extent consistent with provisions of applicable law.

**§ 1102.34 Rebuttal or Notice Not To Contest.**

(a) *When required.* A party to the proceeding may file a Rebuttal or a Notice Not to Contest the allegations contained in the Notice of Intention. A party shall file the one or the other of these documents with the Secretary within 15 calendar days after being served with the Notice of Intention. The Secretary shall place the Rebuttal or the Notice Not To Contest in the public file.

(b) *Requirements of Rebuttal; effect of failure to deny.* A Rebuttal filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of proceeding. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, the party shall admit so much of it as is true and shall deny only the remainder.

(c) *Notice Not To Contest.* A party filing a Notice Not To Contest the allegations of fact set forth in the Notice of Intention shall constitute a waiver of the party's opportunity to rebut the facts alleged, and together with the Notice of Intention and any referenced documents, will provide a record basis on which the ASC shall decide the matter. The filing of a Notice Not To Contest shall not constitute a waiver of the right of such party to a judicial review of the ASC's decision, findings and conclusions.

(d) *Effect of failure to file Rebuttal or Notice Not To Contest.* Failure of a party to file a response required by this section within the time provided shall constitute a waiver of the party's opportunity to rebut and to contest the allegations in the Notice of Intention and shall constitute authorization for the ASC, without further notice to the party, to find the facts to be as alleged in the Notice of Intention and to file with the Secretary a decision containing such findings and appropriate conclusions. The Subcommittee, for good cause shown, may permit the filing of a Rebuttal after the prescribed time.

**§ 1102.35 Opportunity for informal settlement.** Any interested party may at any time submit to the Secretary, for consideration by the Subcommittee, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No offer or

proposal shall be included in the proceeding's public file over the objection of any party to such proceeding. The foregoing provisions of this paragraph shall not preclude settlement of any proceeding by the filing of a Notice Not To Contest as provided in paragraph (c) of this section, or by the submission of the case on a stipulation of facts and an agreed order.

**§ 1102.36 Prohibition of motions.**

The Subcommittee shall not entertain any written or oral motions.

**§ 1102.37 Oral Presentations.**

(a) *In general.* An oral presentation shall be considered as an opportunity to offer, emphasize and clarify the facts, policies and laws concerning the proceeding. A party does not have a right to an oral presentation.

(b) *Method and time of request.* Between the commencement of the proceeding and seven calendar days before the end of the information gathering phase, any party to the proceeding may file with the Secretary a letter requesting that the Secretary schedule an opportunity for the party to give an oral presentation to the ASC. That letter should include the reasons why an oral presentation is necessary.

(c) *ASC processing.* The Secretary must promptly forward the letter request to the Chairman of the ASC. The Chairman, after informally contacting other ASC members and the ASC's senior staff for their views, will instruct the Secretary to forward a letter to the party either: (1) scheduling a date and time for the oral presentation; or (2) declining the request and providing the reasons therefor. The party's letter and the ASC's response will be included in the proceeding's public file.

(d) *Procedure on presentation day.* On the appropriate date and time, the party or his or her duly appointed representative (if any) will make the oral presentation before the ASC. Any ASC member may ask the party or the representative, as the case may be, pertinent questions relating to the content of the oral presentation. Oral presentations will not be recorded or otherwise transcribed. The ASC's Secretary, however, must enter into the proceeding's public file a memorandum summarizing the subjects discussed during the oral presentation.

**§ 1102.38 Decision of the Subcommittee and judicial review.**

Appropriate members of the ASC's staff who are not engaged in the performance of investigative or prosecuting functions in the proceeding, or in a factually related case, may advise and assist the ASC in the consideration of the case and in the preparation of appropriate documents for its disposition. At a reasonable time after the end of the information gathering phase of the proceeding, the ASC shall issue a final decision in the matter and shall cause the decision to be published promptly in the Federal Register. The Secretary shall serve the decision upon the parties and shall furnish it to such other persons as the Subcommittee may direct. Pursuant to the provisions of Chapter 7 of Title 5 of the U.S. Code and § 1118(c)(3) of Title XI of FIRREA (12 U.S.C. § 3348(c)(3)), a final decision of the ASC is a prerequisite to seeking judicial review.

**§ 1102.39 Compliance activities.**

(a) Where, from complaints received from members of the public, communications from Federal or State agencies, examination of information made with the ASC, or otherwise, it appears that a person has violated, is violating or is about to violate Title XI of FIRREA

or the rules or regulations thereunder, the ASC staff may commence an informal, preliminary inquiry into the matter. The ASC, in its discretion, may determine to commence a formal investigation respecting the matter and shall instruct the Secretary to create a public file for the formal investigation and shall place in that file a memorandum naming the person or persons subject to the investigation, the fact that the ASC has commenced a formal investigation of such person or persons, and the statutory basis for the investigation. Unless otherwise instructed by the ASC or required by law, the Secretary shall ensure that all other papers, documents and materials gathered or submitted in connection with the investigation are non-public and for ASC use only.

(b) Persons who become involved in preliminary or formal investigations may, on their own initiative, submit a written statement to the Secretary setting forth their interests and position in regard to the subject matter of the investigation. Upon request, the staff, in its discretion, may advise such persons of the general nature of the investigation, including the indicated violations as they pertain to them, and the amount of time that may be available for preparing and submitting a statement prior to the presentation of a staff recommendation to the ASC. In the event a recommendation for the commencement of a proceeding is presented by the staff, any submissions by interested persons will be forwarded to the ASC.

(c) In instances where the staff has concluded its investigation of a particular matter and has determined that it will not recommend the commencement of a proceeding against a person, the staff, in its discretion, may advise the party that its investigation has been terminated. Such advice, if given, must in no way be construed as indicating that the party

has been exonerated or that no action may ultimately result from the staff's investigation of the particular matter.

**§ 1102.40 Duty to cooperate.**

In the course of the its investigations and proceedings, the ASC (and its staff, with appropriate authorization) must provide parties or persons ample opportunity to work out problems by consent, by settlement, or in some other manner.

**Subpart C - [Reserved]**

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council,

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fred D. Finke, Chairman



# Appraisal Subcommittee

1991 Annual Report

*Appendix N*



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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

September 23, 1991

**NOTICE 91-1**

**Registry of State Certified or Licensed Appraisers**

Title XI provides that the States shall transmit to the Appraisal Subcommittee (Subcommittee), no less than annually: (1) a roster listing individuals who have received a State certification or license to perform appraisals, and (2) a registry fee, of not more than twenty-five dollars (\$25), from individuals who perform, or seek to perform appraisals in federally related transactions.

Detailed specifications relative to the data elements which will comprise the registry, and related accounting procedures, will be sent to the States in approximately one month. The purpose of this Notice is to provide a general description of the hardware and software needed to transmit information to the Subcommittee for inclusion on the registry.

The registry maintained by the Subcommittee will be personal computer/micro based. States which plan to use similar systems for data capture and maintenance, and wish their systems to be compatible with the Subcommittee's, should design their hardware/software configurations so that they are capable of using MS/DOS 3.0 (or higher), have a fixed disk, and at least one megabyte of memory. For those States opting to use other than micro based systems, specifications for tape input are available.

It would be most productive if State configurations included a color, rather than a monochrome, monitor; however, the latter is satisfactory. A printer of dot matrix quality, at the minimum, is essential.

The Subcommittee will accept State input on diskettes or magnetic tapes. Both 3 1/2 inch diskettes and 5 1/4 inch diskettes are acceptable, with the smaller version being preferred.

To assist the States in recording and submitting data efficiently and cost-effectively, the Subcommittee has developed a user-friendly, state-of-the-art software package for use on micro-based

systems. It is contained on diskettes and will be provided at no charge. It should be noted that the Social Security Number of individual appraisers is not a data element the Subcommittee needs to maintain the registry; however, a unique identifier will be used which includes the final six digits of the Social Security Number.

Should you have questions regarding this Notice, or wish a copy of the specifications for magnetic tape input, please contact Paul N. Romani, the Subcommittee's Associate Director for Administration, on (202) 357-0133.



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1776 G Street, NW, Suite 850B • Washington, DC 20006 • (202) 357-0133

September 25, 1991

NOTICE 91-2

National Registry Fee Policy

1. Each State is obligated to remit annually a National Registry fee (fee) for each state-certified and state-licensed appraiser listed on the National Registry. Checks should be made payable to the APPRAISAL SUBCOMMITTEE.
2. For calendar year 1992, the annual fee for each certified/licensed appraiser is \$25.00.
3. Fees will not be prorated or refunds granted for partial year registration. Thus, the fee for adding a name to the Registry in February is \$25.00. For adding a name in November, the fee remains \$25.00. In this example, renewal dates become February and November, respectively.
4. There will be no fee assessed in 1991 because of the July extension. If a State already has collected a fee for 1991, appraisers will receive Federal credit for payment for calendar year 1992 when the fee is received by the Appraisal Subcommittee (Subcommittee).
5. An appraiser is obligated to pay a registry fee in each state in which a permanent state license or certification is held.
6. If a State submits the name of a state-certified or state-licensed appraiser to the Subcommittee for entry onto the Registry without remitting the required fee, the individual's name will not be added to the Registry and the individual will not be eligible to perform appraisals in federally related transactions.
7. If a State issues multiple-year certifications and licenses and collects multiple-year fees, the State must remit to the Subcommittee the total Federal portion of the Registry fee.

**NOTE:** The Subcommittee has the authority to increase the Registry fee to \$50.00 and expects States which have issued multiple-year authorizations to assess appraisers for underpayment of fees.

8. The Subcommittee will consider an appraiser to be inactive if his/her license renewal fee is not received within 30 days of its renewal date or with the State's next update report for the Registry (whichever is later). When in an inactive status, appraisers may not perform appraisals in connection with federally related transactions; additionally, the appraiser's name will be dropped from the Registry. Only upon receipt of the renewal fee and information from the State will the appraiser's status be changed from inactive to active and his/her name be reinstated to the Registry.

Should you have questions regarding this policy statement, please direct them to Paul N. Romani, the Subcommittee's Associate Director for Administration, on (202) 357-0133.

# Appraisal Subcommittee

1991 Annual Report

*Appendix O*

**THE APPRAISAL FOUNDATION**

**RESTATED BYLAWS**

**JANUARY 1, 1992**

**(EXCERPTS)**

**BYLAWS OF**  
**THE APPRAISAL FOUNDATION**  
(an Illinois Not For Profit Corporation)

**ARTICLE I**

**NAME**

The name of this corporation is The Appraisal Foundation (hereafter referred to as the "Foundation").

**ARTICLE II**

**OFFICES**

**SECTION 2.01. PRINCIPAL OFFICE**

The principal office for the transaction of the activities and affairs of the Foundation is located at 1029 Vermont Avenue, N.W., 9th Floor, Washington, D.C. 20005 (the "principal office"). The Board of Trustees of the Foundation (hereinafter referred to as the "Board of Trustees") may change the principal office from one location to another. Any change of location of the principal office shall be noted by the Secretary on these Bylaws opposite this section, or this section may be amended to state the new location.

**SECTION 2.02. OTHER OFFICES**

The Board of Trustees may at any time establish branch or subordinate offices at any place or places where the Foundation is qualified and registered as a foreign corporation to conduct its activities.

**ARTICLE III**

**PURPOSES AND RESTRICTIONS**

**SECTION 3.01. PURPOSES OF FOUNDATION**

The Foundation is an Illinois Not for Profit corporation organized under the Illinois General Not For Profit Corporation Act of 1986, as amended from time to time (hereafter referred to as the "Act").



The Foundation is organized exclusively for educational and scientific purposes, including the making of distributions to organizations that qualify as exempt organizations under Section 501(c) (3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law). In particular, the purposes of the Foundation shall be:

1. To establish and improve uniform appraisal standards by defining, issuing and promoting such standards; to contribute to the education of appraisers, investors, financial institutions, real estate brokers, issuers of securities, government agencies, regulatory bodies and the general public in regard to proper appraisal standards; to conduct and commission research, statistical compilations, and other studies and surveys relating to appraisal standards; and to sponsor and conduct meetings, conferences, hearings and seminars relating to appraisal standards; and
2. To establish appropriate criteria for the licensing, certification and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to States, governmental entities and others and assist them in establishing and maintaining an appropriate system for the licensing, certification and recertification of qualified appraisers, including but not limited to developing or assisting in the development of appropriate examinations for qualified appraisers; to advise appraisers, investors, financial institutions, real estate brokers, issuers of securities, government agencies, regulatory bodies and the general public in regard to appropriate criteria for the licensing, certification and recertification of qualified appraisers; to conduct and commission research, statistical compilations and other studies and surveys relating to such qualification criteria; and to sponsor and conduct meetings, conferences, hearings, and seminars relating to such qualification criteria.

Without limiting the power that the Foundation may lawfully exercise, the Foundation shall have the power to take and receive funds from any source, including but not limited to the government of the United States, the governments of the States, local governments, charitable or educational organizations (including foundations), trade and professional associations, business corporations, partnerships, and individuals. Consistent with the above, and except as provided in Section 3.02 below, the Foundation may exercise all powers available to corporations organized under the Act.

#### SECTION 3.02. LIMITATIONS UPON POWERS AND ACTIVITIES

- (a) General. Notwithstanding any other provision of these Bylaws, the Foundation shall not, except to an insubstantial degree, carry on or engage in any activities or exercise any powers that are not in furtherance of the purposes of this Foundation. Further, this Foundation shall not carry on any activities not permitted to be carried on (i) by a corporation exempt from Federal income tax under Section 501(c) (3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law); or (ii) by a corporation, contributions to which are deductible under Section 170(c) (2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).
- (b) Property. The property, assets, profits and net income of the Foundation are dedicated irrevocably to the purposes set forth in Section 3.01 above. No part of the net earnings of the Foundation shall inure to the benefit of or be distributable to its members, directors, officers, or other private persons, except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Section 3.01 above. Subject to the provisions and limitations of the Act and any other applicable laws, and subject to the limitations created by the Articles of Incorporation and these Bylaws, the property, business and affairs of the Foundation shall

be managed by its Board of Trustees which may exercise all authority and powers and perform all functions of the Foundation and such lawful acts and things as are not directed or required by the Articles of Incorporation or these Bylaws to be exercised or performed by the Appraisal Standards Board or by the Appraiser Qualifications Board.

- (c) Dissolution. Upon the winding up and dissolution of the Foundation, the Board of Trustees shall, after paying or adequately providing for the payment of all of the liabilities of the Foundation, dispose of all of the assets of the Foundation to such organization or organizations organized and operated exclusively for educational or scientific purposes as shall at the time qualify as an exempt organization or as exempt organizations under Section 501(c) (3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law), in such manner as the Board of Trustees shall determine. Any such assets not so disposed of by the Board of Trustees shall be disposed of by the appropriate court of the county in which the principal office of the Foundation is then located, to an exempt organization or to exempt organizations organized and operated exclusively for such purposes.
- (d) Political activity. No substantial part of the activities of this Foundation shall consist of carrying on propaganda or otherwise attempting to influence legislation, and this Foundation shall not participate in or intervene in (including the publishing or distribution of statements in connection with) any political campaign on behalf of any candidate for public office.

#### ARTICLE IV

#### MEMBERSHIP

The Foundation shall have no members, nor shall any Sponsor of the Foundation, as hereafter provided in Article V, have any voting or other right customarily associated with membership in a not-for-profit corporation. Sponsors may meet once annually before the annual meeting of the Board of Trustees at which time

a report of the activities of the Foundation shall be made.

## ARTICLE V

### SPONSORS

#### SECTION 5.01. SPONSORING ORGANIZATIONS

(a) Types of Sponsors. The Foundation shall have three (3) types of sponsoring organizations and they shall be called Appraisal Sponsors, Affiliate Sponsors and Corporate Sponsors (collectively hereafter referred to as "Sponsors"). Except as provided in Section 5.01(a)(ii), each Appraisal, Affiliate and Corporate Sponsor shall be obligated to provide financial support to the Foundation as hereafter set forth in Section 5.02.

(i) Appraisal Sponsors. Only an appraisal organization may be an Appraisal Sponsor of the Foundation. Appraisal organizations comprising the Regular Class of membership in the Foundation (as of December 31, 1991) shall be Appraisal Sponsors upon the effective date of these Bylaws. Each of these organizations, and any other appraisal organization which meets certain qualifications (the "Criteria"), from time to time amended by the Board of Trustees, shall as an Appraisal Sponsor have the right to appoint one individual to the Board of Trustees in the manner provided for in these Bylaws.

An appraisal organization which makes the financial contribution required of it by the Board of Trustees, but does not meet the Criteria, nonetheless shall be called an Appraisal Sponsor. Such an appraisal organization shall have the right to nominate and not appoint an individual to serve At-Large on the Board of Trustees in accordance with these Bylaws. In addition, such an appraisal organization must adopt the Uniform Standards of Professional Appraisal Practice (USPAP), have a meaningful mechanism for teaching

and enforcing USPAP and meet such other requirements the Board of Trustees from time to time may adopt by resolution.

- (ii) Affiliate Sponsors. Organizations having a demonstrable interest in the appraisal profession and which are organized on a non-profit, nonstock or not-for-profit basis and recognized as exempt from the payment of Federal income taxes may be Affiliate Sponsors. No appraisal organization or regulatory or governmental or public sector agency, or business (for profit) entity shall be an Affiliate Sponsor.

Affiliate Sponsors shall be required to make the financial contributions required of them as determined by the Board of Trustees pursuant to Section 5.02. Those Affiliate Sponsors which make the contribution as established by the Board of Trustees shall have the right to appoint an individual to serve on the Board. Those affiliate Sponsors which make the nominal contribution as established by the Board of Trustees shall have the right to nominate an individual to serve At-Large on the Board of Trustees.

Organizations comprising the Special Class of members as of December 31, 1991 each shall have the right to appoint an individual to serve on the Board of Trustees until January 1, 1996, without any obligation to make a financial contribution to the Foundation. Thereafter, such organizations must make the financial contributions required of them as determined by the Board of Trustees to continue to retain the right to appoint. Any organization comprising the Special Class which does not thereafter make the contribution shall nonetheless continue to be an Affiliate Sponsor of the Foundation but may only nominate an individual to serve At-Large on the Board of Trustees, provided, however, it makes the nominal financial contribution as determined by the Board of Trustees.

(iii) Corporate Sponsors. For-profit entities having a demonstrable interest in the practical use of appraisals and appraisal practices, procedures and qualifications of appraisers as applied in the marketplace may be Corporate Sponsors. All Corporate Sponsors may nominate an individual to serve At-Large on the Board of Trustees.

(b) Admission. To become an Appraisal, Affiliate or Corporate Sponsor, an organization or entity must receive the vote of two-thirds of the Board of Trustees present at a quorum meeting.

#### SECTION 5.02. DONATIONS

Each Appraisal, Affiliate and Corporate Sponsor of the Foundation shall be required to make the financial contribution required of it as determined from time to time by the Board of Trustees. Notwithstanding the foregoing, the financial contribution of Appraisal Sponsors shall be determined by the Board of Trustees according to the following formula: a fixed fee and a per capita assessment based on the number of appraisal members in each Appraisal Sponsor not to exceed 15,000 appraisal members. For the purpose of this Section only, an appraisal member shall mean a person who is involved in the business of appraisals, appraisal analyses or evaluation, including designated members, individuals working towards designations and certified or licensed appraisers.

#### SECTION 5.03. GOOD STANDING

Sponsors who have paid their donations in accordance with Section 5.02, and those Sponsors who are not suspended, shall be Sponsors in good standing.

#### SECTION 5.04. TERMINATION AND SUSPENSION OF SPONSORS

(a) Cause of Termination. A sponsoring organization shall be automatically terminated as a Sponsor on the occurrence of any of the following events:

(i) Written resignation of a Sponsor upon reasonable notice to the Foundation;

- (ii) Failure of the Sponsor to pay its donation within the grace period established by the Board of Trustees when such donation becomes delinquent; or
  - (iii) Suspension or expulsion of a Sponsor pursuant to Sections 5.04(b)(i), (ii) and 5.04(c) of these Bylaws.
- (b) (i) Basis for Suspending a Sponsor. A Sponsor may be suspended in the manner provided under Section 5.04(c) upon a determination by a two-thirds vote of the Board of Trustees present at a quorum meeting that the Sponsor no longer qualifies as an Appraisal, Affiliate or Corporate Sponsor or has engaged in conduct materially and seriously prejudicial to the purposes and interests of the Foundation.
- (ii) Basis for Expelling a Sponsor. A Sponsor may be expelled in the manner provided under Section 5.04(c) upon a determination by a two-thirds vote of the Board of Trustees present at a quorum meeting that the Sponsor no longer qualifies as an Appraisal, Affiliate or Corporate Sponsor or has engaged in conduct materially and seriously prejudicial to the purposes and interests of the Foundation.
- (c) Procedure for Suspension or Expulsion of a Sponsor. If grounds appear to exist for the suspension or expulsion of a Sponsor, the procedure set forth below shall be followed:
- (i) The Sponsor shall be given no fewer than thirty (30) days prior written notice of the intention of the Board of Trustees to consider the proposed suspension or expulsion and the reasons for the proposed suspension or expulsion. Such notice shall be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be sent by certified or registered mail to the Sponsor's last address as shown on the records of the Foundation.

- (ii) The Sponsor shall be given an opportunity to be heard (either orally or in writing at the election of the Sponsor) not fewer than ten (10) days prior to the effective date of any proposed suspension or expulsion. If requested by a Sponsor, a hearing shall be held by the Board of Trustees to determine whether the suspension or expulsion should take place. If a written statement is submitted by the Sponsor, such written statement shall be considered by the Board of Trustees prior to determining whether the suspension or expulsion should take place.
- (iii) The Board of Trustees shall decide whether the Sponsor should be suspended or expelled or sanctioned other than by suspension or expulsion by a two-thirds vote thereof at a quorum meeting. The decision of the Board of Trustees to impose any sanction shall be final.

## ARTICLE VI

### BOARD OF TRUSTEES

#### SECTION 6.01. POWERS

- (a) General Powers and Duties. Subject to the provisions and limitations of the Act and any other applicable laws, and subject to any limitations created by the Articles of Incorporation or these Bylaws, the property, business and affairs of the Foundation shall be managed by its Board of Trustees, which may exercise all authority and powers and perform all functions of the Foundation except for the authority, powers and functions which the Articles of Incorporation or these Bylaws have directed or required to be exercised or performed by the Appraisal Standards Board or by the Appraiser Qualifications Board. The Board of Trustees shall arrange for the financing of the Foundation and shall have power of approval over its annual budget and the annual budgets of the Appraisal Standards Board, Appraiser Qualifications Board and the Appraisal Standards Advisory Council as prepared and presented by their respective Chairmen.



(b) Specific Powers. Without prejudice to these general powers, but subject to the same limitations, the Board of Trustees shall have the power to:

- (i) Appoint and remove, at the pleasure of the Board of Trustees, all officers, agents and employees of the Foundation (other than the officers, agents and employees of the Appraisal Standards Board and the Appraiser Qualifications Board as provided in these Bylaws); prescribe powers and duties for them that are consistent with the law and with the Articles of Incorporation and with these Bylaws; and fix their compensation.
- (ii) Change the principal office of the Foundation from one location to another; cause the Foundation to be qualified to conduct its activities in any other state, territory, dependence, or country; conduct its activities within or outside of the State of Illinois; and designate any place within or outside the State of Illinois for the holding of any meeting, including annual meetings.
- (iii) Adopt and use a corporate seal and alter the form thereof.
- (iv) Borrow money and incur indebtedness on behalf of the Foundation and cause to be executed and delivered for the purposes of the Foundation, in the Foundation's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations and other evidences of debt and securities.

**SECTION 6.02.**

**APPOINTMENT, ELECTION AND REMOVAL OF THE BOARD OF TRUSTEES**

(a) Composition of the Board of Trustees.

The Board of Trustees shall be composed of the following:

- (i) the Trustees appointed by the Appraisal Sponsors qualified to appoint an individual to serve on the Board of Trustees in the manner set forth in Section 6.02(b) of these Bylaws;
- (ii) the Trustees appointed by the Affiliate Sponsors qualified to appoint an individual to serve on the Board of Trustees in the manner set forth in Section 6.02(b) of these Bylaws;
- (iii) the Trustees ("At-Large Trustees") elected in the manner set forth in Section 6.02(c) of these Bylaws; and
- (iv) the Executive Vice President.

All of the Trustees constituting the Board of Trustees shall have voice and vote in all matters except the Executive Vice President, who shall have voice but no vote.

(b) Appointment and Election of Trustees. The Trustees shall be appointed or elected as provided in these Bylaws, except that the Board of Trustees may establish by resolution the procedures by which the Trustees shall be appointed or elected. Each Trustee, including a Trustee appointed or elected to fill a vacancy, shall hold office until the expiration of the term for which appointed or elected and until a successor is appointed or elected and qualified.

- (i) Each Appraisal Sponsor having the right to appoint a Trustee as provided in Section 5.01(a) shall be entitled to appoint one (1) Trustee.
- (ii) Each Affiliate Sponsor having the right to appoint a Trustee as provided in Section 5.01(a) shall be entitled to appoint one (1) Trustee.
- (iii) Not less than fourteen (14) Trustees shall be elected At-Large by the Board of Trustees, nominated pursuant to Section 6.02(c)(i) of these Bylaws. Not less than one At-Large Trustee shall be an appraiser not affiliated with an Appraisal Sponsor who is also State certified or licensed.

The Trustees appointed by the Appraisal Sponsors and the Trustees elected At-Large who are appraisers together must constitute a majority of the Trustees on the Board of Trustees.

(c) Election of At-Large Trustees. The At-Large Trustees to be elected under Section 6.02(b)(iii) shall be elected at the annual meeting of the Board of Trustees as provided in subparagraphs (i)-(v), below. However, if any annual meeting is not held or the said Trustees are not elected at any annual meeting, they may be elected at any special meeting of the Trustees held for that purpose. Nominations for At-Large Trustees shall be solicited from the following nonexclusive sources: Sponsors (who nominate but do not appoint); academia; State certified or licensed appraisers not affiliated with an Appraisal Sponsor; and the public-at-large.

(i) At least six (6) months in advance of the date of the election of At-Large Trustees, the Chairman of the Board of Trustees shall cause a notice to be placed in the official newsletter of the Foundation and in a newspaper of national circulation. The Chairman shall also cause the appraisal regulatory board in each jurisdiction to be notified that the Foundation is accepting the names of qualified candidates for election as a trustee. The Chairman, in addition, shall cause each Sponsor and appraisal proprietary newsletters to be notified.

(ii) At least ninety (90) days before the date of election, the Board of Trustees shall appoint a Trustee Nominating Committee consisting of five Trustees to select qualified candidates for election of the At-Large Trustees to the Board of Trustees. The composition of the Trustee Nominating Committee shall not include more than three Trustees appointed under Section 6.02(b)(i).

- (iii) The Trustee Nominating Committee shall not consider candidates for election whose names are submitted to it less than sixty (60) days before the date of the election. The Trustee Nominating Committee shall consider the appraisal disciplines as represented by the Uniform Standards of Professional Appraisal Practice in its selection of nominees for election as At-Large Trustees by the Board of Trustees.
- (iv) The Trustee Nominating Committee shall make its report (the "Report") to the Board of Trustees at least thirty (30) days before the date of the election, or at such lesser time as the Board of Trustees may set. The Report shall contain the list of all candidates nominated by the Committee, the number of which must exceed the seats available for election.
- (v) The Secretary shall forward the Committee's report to each Trustee eligible to vote in the election of At-Large Trustees with the notice of meeting required by these Bylaws, and a list of all candidates nominated by the Committee.
- (d) Restrictions on Trustees or Candidates. No Trustee or candidate for said position, elected or appointed, may hold or continue to hold the office of president or president-elect of an organization which is a Sponsor of the Foundation at any time during their tenure as a trustee. No person serving as a Trustee at the time these Restated Bylaws become effective shall be bound by the restrictions of this subsection.
- (e) Restrictions on Trustees. No Trustee shall receive compensation from the Foundation for services rendered to it as a trustee. No interested person shall serve on the Board of Trustees. An interested person is (1) any person being compensated by the Foundation for services rendered to it

within the previous twelve (12) months, whether as full-time or part-time employee, independent contractor, or otherwise (excluding compensation to a Trustee, who at the request or approval of the Board of Trustees, performs services for, to or on behalf of the Foundation in a representative capacity or otherwise, apart from services as a Trustee); and (2) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law; son-in-law, daughter-in-law, mother-in-law or father-in-law of such person. However, any violation of the provisions of this paragraph shall not affect the validity or enforceability of any transaction entered into by the Foundation. A Trustee may not participate in any vote on any proposed transaction with another organization or entity of which such Trustee is also an employee, principal or director. Trustees need not be residents of the State of Illinois.

- (f) Removal of Appointed and Elected Trustees. An Appraisal or Affiliate Sponsor shall not have the right to remove an individual appointed by them to the Board of Trustees prior to the completion of that individual's term, absent the physical or mental incapacity of the individual. Subject to applicable law, any member of the Board of Trustees shall be removed from office by the Board of Trustees upon a two-thirds vote of the Trustees present at a quorum meeting, the grounds for which are set forth below:
- (i) In the opinion of the Board of Trustees, he or she failed or refused to properly perform the duties of the office;
  - (ii) If the Sponsor that appointed said Trustee is no longer an Appraisal or Affiliate Sponsor of the Foundation;
  - (iii) Any reason proposed to the Board of Trustees by the Appraisal or Affiliate Sponsor that appointed said Trustee;
  - (iv) The individual has plead guilty to or has been convicted of a felony; or
  - (v) Any other reason authorized by law.

**SECTION 6.03. TERM OF OFFICE OF TRUSTEES**

- (a) Term. Except as provided in Section 6.03(b), a Trustee appointed or elected in accordance with Section 6.02(b) or (c) shall serve a term of three years but shall not serve more than two consecutive three year terms, or six consecutive years.
- (b) Staggering and Transition of Terms. Consistent with the provisions of Section 6.03(a), the following shall govern the terms of the Trustees serving as of December 31, 1991, and Trustees appointed by Sponsors qualified after January 1, 1992, and Trustees elected At-Large after that date:
- (i) Trustees appointed to the Board, who have served two consecutive two year terms as of January 1992, shall be eligible to serve as an appointed Trustee for one additional term of two years.
  - (ii) Trustees appointed to the Board prior to January 1, 1992, who have not completed one term of two years, shall be eligible to serve as a Trustee for one term of three years at the conclusion of the Trustee(s)' current term.
  - (iii) Trustees appointed by the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers, who have served two complete two year terms as of January 1992, are not eligible for reappointment.
  - (iv) Trustees appointed by the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers, whose terms expire after January 1992, shall be considered At-Large Trustees until the expiration of their terms.
  - (v) Trustees appointed under Section 6.02(b)(i) and 6.02(b)(ii) by Sponsors who are not Appraisal or Affiliate Sponsors as of February 1, 1992, shall serve terms of three years from the date of their appointment.

- (vi) Trustees elected in the manner set forth in Section 6.02(c) of these Bylaws shall be appointed for initial terms of one, two and three years, at the discretion of the Board of Trustees, in order to promote the staggering of terms. The terms of these Trustees shall commence on January 1, 1993, and end on December 31 of the calendar year of their appointment.

#### SECTION 6.04. VACANCIES

- (a) Events Causing Vacancy. A vacancy on the Board of Trustees shall exist on the occurrence of the following: (i) the death, removal, or resignation of any Trustee; (ii) a Trustee becoming an interested person as defined in Section 6.02(e); (iii) the termination of a person as Trustee when the Sponsor that appointed such Trustee ceases to be a Sponsor; or (iv) the declaration by resolution of the Board of Trustees of a vacancy in the office of a Trustee who has been declared of unsound mind by an order of the court; has been convicted of a felony; or has been found by a final order or judgment of any court to have breached a duty under the Act.
- (b) Resignations. A Trustee may resign effective upon the giving of written notice to the Chairman of the Board or the Secretary of the Board of Trustees, unless such notice specified a later time for the resignation to become effective, provided, however, that if the Foundation would then be left without a duly appointed Trustee or Trustees in charge of its affairs, the such notice must be given to the Attorney General of the State of Illinois.
- (c) Filling Vacancies. Each vacancy on the Board of Trustees shall be filled by the Board of Trustees or Sponsor, whichever elected or appointed the preceding Trustee to the now vacant position, provided that in the case of a Sponsor appointing the Trustee, that the Sponsor is currently a Sponsor in good standing. In the case of a vacancy in the office of an At-Large Trustee, such position shall be filled in accordance with the procedure set forth in Section 6.02(c).

- (d) No Vacancy Upon Reduction of the Number of Trustees. No reduction of the authorized number of Trustees shall have the effect of removing any Trustee before such Trustee's term of office expires.

#### SECTION 6.05.

##### PLACE OF MEETINGS AND MEETINGS HELD BY TELEPHONE

Meetings of the Board of Trustees shall be held at the principal office of the Foundation or at such other place as may be designated by the Board of Trustees. Any meeting of the Board of Trustees may be held by conference telephone or similar communication equipment, so long as all Trustees participating in the meeting can hear one another. In such event, all such Trustees shall be deemed to be present at such meeting.

#### SECTION 6.06. ANNUAL, REGULAR AND SPECIAL MEETINGS

- (a) Annual Meeting. In October of each year, the Board of Trustees shall hold an annual meeting for the purpose of electing officers and the At-Large Trustees, and the transaction of other business; provided, however, that the Board of Trustees may fix another time for holding of its annual meeting.
- (b) Regular Meeting. A regular meeting of the Board of Trustees shall be held in April of each year at the principal office of the Foundation, or at any other date, time and place designated from time to time by resolution of the Board of Trustees. Said meeting shall be held with notice pursuant to Sections 6.06(ii-iv).
- (c) Special Meetings.
- (i) Authority to Call. Special meetings of the Board of Trustees for any purpose may be called at any time by the Chairman of the Board, Vice Chairman of the Board, or by twenty-five (25%) percent of the Trustees.



the time by which the ballot must be received by the Foundation in order to be counted.

All solicitations of votes by written ballot shall indicate the number of responses needed to meet the quorum requirement and state the percentage of approvals necessary to pass the measure or measures.

- (ii) Number of Votes and Approvals Required. Approval by written ballot shall be valid only when (1) the number of votes cast by ballot and received within the time specified equals or exceeds the quorum that would be required to be present at a meeting authorizing the action; and (2) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot without a meeting.
- (iii) Revocation. A written ballot may not be revoked.
- (iv) Filing. All written ballots shall be filed with the Secretary of the Foundation and maintained in the corporate records for at least two (2) years.

## ARTICLE VII

### COMMITTEES

#### SECTION 7.01. COMMITTEES OF THE BOARD OF TRUSTEES

- (a) Standing Committees. The Board of Trustees shall have the following Standing Committees: Executive, Admissions, Finance, Trustee Nominating, Officers Nominating, Standards and Qualifications Boards Nominating, Audit, and Publications. Members of the Standing Committee shall be appointed by the Chairman of the Board of Trustees with the approval of the Board, except as provided in Section 7.01(a)(i). In addition, each Standing Committee shall have

from among its members a chairman appointed by the Chairman of the Board of Trustees.

- (i) Executive Committee. This Committee shall be composed of the officers of the Foundation (exclusive of the Executive Vice President) and the Chairmen of the other Standing Committees listed in Section 7.01(a). The term of each member of the Executive Committee shall be for one year, or such longer term as the Board of Trustees may establish by resolution. The Executive Committee shall exercise all powers of the Board of Trustees as provided in the Articles of Incorporation and these Bylaws between meetings of the Board of Trustees, except the Committee may not amend or repeal Bylaws or adopt new Bylaws; amend or repeal the Articles of Incorporation or adopt new Articles of Incorporation; fill vacancies in or make appointments to the Board of Trustees, the Appraisal Standards Board, the Appraiser Qualifications Board, the Appraisal Foundation Advisory Council, the Appraisal Standards Advisory Council or any committee or council of the Board of Trustees or of the Foundation; approve the budget or an audit of the Foundation's books and records; or approve the admission of Sponsors of the Foundation.
  
- (ii) Admissions Committee. This Committee shall have no less than five members. All members of the Admissions Committee shall be Trustees. The term of each member shall be for one year or such longer term as the Board of Trustees may establish by resolution. The Admissions Committee shall review applications from organizations or entities seeking to be a Sponsor of the Foundation and provide the Board of Trustees with a report and recommendation as to each.

- (iii) Finance Committee. This Committee shall have no less than five members. A majority of the members shall be Trustees. The term for each member shall be for one year or such longer term as the Board of Trustees may establish by resolution. The Finance Committee shall have authority to develop and prepare for approval by the Board of Trustees or Executive Committee as the case may be the annual budget and the business plan of the Foundation, and fund raising programs.
- (iv) Trustee Nominating Committee. This Committee shall be composed of and perform the duties described in Section 6.02(c).
- (v) Officers Nominating Committee. This Committee shall be composed of not less than five Trustees appointed by the Chairman of the Board of Trustees. The term for each member shall be for one year or such longer term as the Board of Trustees may establish by resolution. The Officers Nominating Committee shall present to the Board of Trustees a slate of nominees for officers of the Foundation at the regular meeting of the Board of Trustees held pursuant to Section 6.06(b).
- (vi) Standards and Qualifications Boards Nominating Committee. This Committee shall have no less than five members. All members of this Committee shall be Trustees. The term for each member shall be for one year or such longer term as the Board of Trustees may establish by resolution. The Standards and Qualifications Boards Nominating Committee shall make such reports and recommendations to the Board of Trustees as may be necessary to fill vacancies on the Appraisal Standards and Appraiser Qualifications Boards.

- (vii) Audit Committee. This Committee shall have no less than three members. All members of the Audit Committee shall be Trustees. The term for each member shall be for one year or such longer term as the Board of Trustees may establish by resolution. The Audit Committee shall prepare and provide to the Board of Trustees the Annual Report required under Section 10.03 and Annual Statement required under Section 10.04.
- (viii) Publications Committee. This Committee shall have no less than three members and shall be composed of at least two Trustees. The term for each member shall be for one year or such longer term as the Board of Trustees may establish by resolution. The Publications Committee shall have the responsibility for supervising and approving all official publications of the Foundation within guidelines established by the Board of Trustees.
- (b) Other Committees. The Board of Trustees, by resolution adopted by a majority of the Trustees then in office, may create one or more other committees of Trustees, each consisting of two or more Trustees, to serve at the pleasure of the Board of Trustees. Appointments to committees of the Board of Trustees shall be by majority vote of the Trustees then in office. The Board of Trustees may appoint one or more Trustees as alternate members of any such committee, who may replace an absent member at any meeting.
- (c) Limitation of Authority of Committees of the Board of Trustees. A committee created by resolution of the Board of Trustees or pursuant to Section 7.01(a) shall have the authority of the Board of Trustees provided in the resolution or in Section 7.01(a), except that no committee, regardless of the resolution or the provisions of Section 7.01(a), may:
- (a) fill vacancies in the Board of Trustees or in any committee which has the authority of the Board;
  - (b) establish or fix compensation of the Trustees for serving on the Board or on any committee;

- (c) amend or repeal Bylaws or adopt new Bylaws;
- (d) amend, repeal or take any action inconsistent with any resolution of the Board of Trustees;
- (e) appoint any other committees of the Board or members of these committees;
- (f) approve any contract or transaction to which the Foundation is a party and in which one or more of its Trustees has a material financial interest;
- (g) adopt a plan for the distribution of the assets of the corporation or for dissolution;
- (h) approve or recommend to Sponsors any act required by law to be approved by Sponsors;
- (i) elect, appoint or remove any Trustee, officer or member of any committee;
- (j) adopt a plan of merger or consolidation with another corporation; or
- (k) authorize the sale, lease, exchange or mortgage of all or substantially all of the property or assets of the Foundation.

#### SECTION 7.02. MEETINGS AND ACTION OF THE COMMITTEES

Meetings and actions of committees of the Board of Trustees shall be governed by, held and taken in accordance with the provisions of Article VI of these Bylaws concerning meetings and other actions of the Board, except that the time for regular meetings for such committees and the calling of special meetings thereof may be determined either by resolution of the Board of Trustees or, if there is no Board resolution, by resolution of the committee of the Board of Trustees. Minutes shall be kept of each meeting of any committee of the Board of Trustees and shall be filed with the corporate records. The Board of Trustees may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws. In the absence of rules adopted by the Board of Trustees, the committee may adopt such rules.

**ARTICLE XVII**

**AMENDMENT OF THE ARTICLES AND THE BYLAWS OF THE FOUNDATION**

**SECTION 17.01.**

**AMENDMENT OF THE ARTICLES AND THE BYLAWS  
BY THE BOARD OF TRUSTEES**

The Articles of Incorporation of the Foundation provide that the Articles and the Bylaws of the Foundation shall be amended, repealed or altered in whole or in part in the manner specified in the Bylaws. Accordingly, the Articles and the Bylaws shall be amended, repealed or altered in whole or in part by an affirmative vote of eighty percent (80%) of all of the members of the Board of Trustees of the Foundation, regardless of the number of Trustees present at a quorum meeting.

The Secretary of the Foundation shall attach a true and correct copy of all amendments of the Bylaws, duly certified by the Secretary, to the official Bylaws of the Foundation that are maintained with the official records of the Foundation at the principal office of the Foundation.

**ARTICLE XVIII**

**SUNSET PROVISION**

Notwithstanding anything in these Bylaws to the contrary, effective January 1, 2002 all Trustees shall be elected by the Board of Trustees. Pursuant to Section 17.01, the Board of Trustees shall make such technical amendments to the Articles of Incorporation and these Bylaws to implement this change.

**ARTICLE XIX**

**EFFECTIVE DATE**

These Bylaws shall be effective on January 1, 1992.

ARTICLES OF AMENDMENT TO THE ARTICLES  
OF INCORPORATION

Pursuant to the provisions of "The General Not For Profit Corporation Act of 1986 (State of Illinois)", the undersigned corporation hereby adopts these Articles of Amendment to its Articles of Incorporation.

Article One. The name of the corporation is: The Appraisal Foundation.

Article Two. The following amendments to the Articles of Incorporation were adopted on October \_\_, 1991 by the members at a meeting of members entitled to vote by the affirmative vote of the members having not less than the minimum number of votes necessary to adopt such amendments, as provided in this Act, the Articles of Incorporation or the Bylaws, in accordance with Section 110.20.

RESOLVED, that Articles 6, 7 and 10 shall be deleted in their entirety and the following substituted therefor:

Article 6. Membership

The corporation shall have no members.

Article 7. Board of Trustees.

The corporation shall be governed by a Board of Trustees, which shall manage and regulate the affairs of the corporation in accordance with the Bylaws, these Articles and the Act.

Article 10. Amendment of Articles of Incorporation and Bylaws.

These Articles and the Bylaws may be amended, repealed or altered in whole or in part in the manner specified in the Bylaws.

The undersigned corporation has caused these articles to be signed by its duly authorized officers, each of whom affirm, under penalties of perjury, that the facts stated herein are true.

Dated: \_\_\_\_\_, 1991

THE APPRAISAL FOUNDATION

Attested by: \_\_\_\_\_  
Secretary/Asst.  
Secretary

By \_\_\_\_\_  
President/Vice President

\_\_\_\_\_  
Name and Title  
Printed/Typed

\_\_\_\_\_  
Name and Title  
Printed/Typed



# Appraisal Subcommittee

1991 Annual Report

*Appendix P*

PROGRAM

APPRAISAL SUBCOMMITTEE

STATE REGULATORS CONFERENCE

OCTOBER 31 - NOVEMBER 1, 1991



INTRODUCTION

Welcome to the Appraisal Subcommittee's State Regulators Conference. During this conference, we will discuss many of the important challenges and issues that face us as we move together towards fully implementing a substantially uniform, nationwide system of appraiser regulation. We believe that we will benefit from a free and spirited exchange of knowledge, ideas, and views, and that the exchange will lead us to new and stronger lines of communications through which challenges can be met and problems can be solved.

The Subcommittee, as you probably know, was created by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as part of the Federal Financial Institutions Examination Council. The Subcommittee consists of six high-ranking Federal agency officials, one each from the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of Thrift Supervision, and the U.S. Department of Housing and Urban Development. Each Subcommittee member is appointed by his or her agency head. While the Subcommittee is part of the Examination Council, it is a separately funded Federal Agency, has its own professional staff and, with a few statutory exceptions, operates independently in carrying out its functions and responsibilities. The Subcommittee has four core functions and responsibilities: (1) to oversee State appraiser regulatory schemes; (2) to monitor the appraisal requirements established by certain Federal agencies; (3) to establish a national registry of State licensed and certified appraisers; and (4) to monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

During the next two days, we hope to discuss and clarify issues that remain unresolved at the State level. The Subcommittee and its staff are looking to you, the State regulators, for guidance on how we best can assist you in implementing Title XI fully by the end of the year.

## KEYNOTE SPEAKER



Congressman Doug Barnard, Jr., is in his seventh term in Congress. He represents the 10th District of Georgia which includes the cities of Athens and Augusta. He was first elected to Congress in 1976 and presently serves as chairman of the House Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs. Additionally, he is a member of the House Banking Subcommittees on Financial Institutions, General Oversight, Domestic Monetary Policy, and Consumer Affairs.

### CONGRESSMAN DOUG BARNARD, JR.

It was under Congressman Barnard's direction that the Subcommittee on Commerce, Consumer, and Monetary Affairs first studied the issue of appraisal practices and abuses in the real estate and financial markets. This study was the basis for the September 1986 Committee on Government Operations report to Congress on the *Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market*. Congressman Barnard's efforts on appraisal reform lead to the inclusion of Title XI, Real Estate Appraisal Reform Amendments, in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Prior to entering Congress, Congressman Barnard was a banker in Georgia for over 25 years. He is a graduate of Mercer University in Macon, Georgia, where he received both undergraduate and law degrees. Congressman Barnard served in the U.S. Army during World War II in Northern Europe.

**Thursday, October 31**

- 8:00 Registration, coffee
- 9:00-9:15 Welcome to the Conference, Introductions
  - Fred D. Finke, Chairman,
  - The Appraisal Subcommittee
- 9:15-9:45 Keynote
  - Congressman Doug Barnard, Jr.
- 9:45-10:30 Report on Title XI Implementation
  - Edwin W. Baker, Executive Director,
  - The Appraisal Subcommittee
- 10:30-10:45 Break
- 10:45-12:00 Title XI Federal activities:
  - Agency Regulations, Guidelines, and Activities
  - Diana L. Garmus, Member, ASC, representing the Office of Thrift Supervision
  - Subcommittee Activities, Current and Proposed
  - Rhoger H Pugh, Member, ASC, representing the Federal Reserve
  - Federal Agency Appraisal Activities
  - Morris E. Carter, Member, ASC, representing the Department of Housing and Urban Development
- 12:00-1:30 Lunch
- 1:30-3:00 State Implementation of Title XI
  - Moderator: Robert F. Mialovich, Member, ASC, representing FDIC
  - Panel of States:
    - Massachusetts - Anne Collins, Administrative Council, Board of Registration of Real Estate Appraisers

- Florida - Craig Sikes, Acting Executive Director, Florida Real Estate Appraisal Board
- Texas - Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board
- Maryland - Bill Bowen, Chairman, Maryland Real Estate Appraisal Commission
- Wisconsin - Ruby Jefferson-Moore, Legal Counsel, Wisconsin Real Estate Appraisers Board
- Minnesota - Dennis Poppenhagen, Director of Licensing, Department of Commerce
- 3:00-3:15 Break
- 3:15-5:00 Temporary Practice & Reciprocity
  - Moderator: Tim Hornbrook, Member, ASC, representing NCUA
  - Panel of States:
    - Missouri - Scott Wright, Executive Director, Missouri Real Estate Appraisers Commission
    - Colorado - Stewart Leach, Program Administrator, Colorado Board of Real Estate Appraisers
    - Connecticut - Tami W. Kaschuluk, Real Estate Appraisal Commissioner
    - North Carolina - James Poole, Director of Appraiser Licensing and Certification, North Carolina Real Estate Appraisal Board
    - Nevada - Doug Walther, Supervising Deputy Attorney General, Department of Commerce
- 6:00-8:00 ASC Reception for State Regulators

## AGENDA

### Friday, November 1

- 8:00-10:45 Appraisal Standards Board and Appraisal Qualifications Board Activities  
- James Klopfenstein, Chairman, AQB  
- John Leary, Chairman, ASB  
- David Buntun, Executive Vice President, Appraisal Foundation
- 10:45-11:00 Break
- 11:00-12:00 Registry/Fees  
- Paul Romani, Subcommittee staff, and NCUA contractors
- 12:00-1:30 Lunch
- 1:30-3:00 ASC State Monitoring Visits, Hearing Procedures, Sanctions  
- Ron Peppe, Marc Weinberg, Subcommittee staff
- 3:00-3:15 Break
- 3:15-5:00 Questions and Answer Session  
- Subcommittee members, Subcommittee staff
- 5:00 Closing Remarks  
- Fred Finke, Chairman, the Appraisal Subcommittee

## APPRAISAL SUBCOMMITTEE MEMBERS

### Office of the Comptroller of the Currency

- Fred D. Finke, Deputy Comptroller, Special Supervision  
Mr. Finke is Chairman of the Appraisal Subcommittee and has been OCC's representative to the Subcommittee since September 1990.

### Board of Governors of the Federal Reserve System

- Rhoger H Pugh, Manager for Policy Development, Division of Banking Supervision and Regulation  
Mr. Pugh is the Board's alternate voting representative on the Subcommittee and has held this position since November 1989.

### Federal Deposit Insurance Corporation

- Robert F. Mialovich, Assistant Director, Office of Policy, Division of Supervision  
Mr. Mialovich has been a member of the Subcommittee since November 1989.

### Department of Housing and Urban Development

- Morris E. Carter, Director, Single Family Development Division  
Mr. Carter is the new HUD representative to the Subcommittee, appointed September 1991.

### National Credit Union Administration

- Timothy P. Hornbrook, Director, Department of Supervision, Office of Examination and Insurance  
Mr. Hornbrook has been a member of the Subcommittee since November 1989.

### Office of Thrift Supervision

- Diana L. Garmus, Deputy Assistant Director for Corporate Activities  
Ms. Garmus has been a member of the Subcommittee since September 1990.

The Appraisal Foundation is organized exclusively for educational and scientific purposes. Its purposes are:

- To establish, issue, improve, and promote uniform appraisal standards and appropriate appraiser licensing and certification qualifications criteria;
- To contribute to the education of appraisers, investors, financial institutions, real estate brokers, securities issuers, government agencies, regulatory bodies, and the general public respecting proper appraisal standards and to advise those persons and organizations about appropriate appraiser licensing and certification qualification criteria;
- To conduct and commission research, statistical compilations, and other studies and surveys relating to appraisal standards and qualifications criteria;
- To sponsor and conduct meetings, conferences, hearings, and seminars relating to appraisal standards and qualifications criteria; and
- To disseminate qualification criteria to States, governmental entities and others to assist them in establishing and maintaining a system for licensing and certifying qualified appraisers.

**James W. Klopfenstein**

James W. Klopfenstein is an original member and the first Chairman of the Appraisal Qualifications Board (AQB) of the Appraisal Foundation. Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 authorizes the AQB to set the minimum qualification requirements for State certification of appraisers. The AQB also is responsible for reviewing and approving State certification examinations.

Mr. Klopfenstein is a practicing appraiser, has authored articles for professional journals and other publications, and has taught courses on real estate appraisal. He holds numerous professional memberships and is a former president of a national appraisal organization.

**John J. Leary**

John J. Leary is chairman of the Appraisal Standards Board (ASB) of the Appraisal Foundation. Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 effectively authorizes the ASB to set the minimal appraisal standards for federally insured banks and credit unions.

Mr. Leary has been actively involved in the development and drafting of standards of professional practice since 1982. He chaired the Appraisal Standards Board of the American Institute of Real Estate Appraisers in 1986 and 1987 and was the delegate from the American Institute to the Ad Hoc Committee on Uniform Standards. This committee, composed of representatives from eight leading appraisal organizations and the Appraisal Institute of Canada, adopted the Uniform Standards of Professional Appraisal Practice in 1987.

Mr. Leary is the Senior Vice President of Connecticut National Bank and Chief Appraisal Officer of Shawmut National Corporation. He has lectured on appraisal-related topics and taught appraisal courses for over 15 years. His professional memberships are numerous.



**OFFICERS AND STAFF OF  
THE APPRAISAL SUBCOMMITTEE**

**Officers**

**Edwin W. Baker**

**Executive Director**

**Ronald W. Peppe**

**Associate Director for  
Policy and Programs**

**Paul N. Romani**

**Associate Director for  
Administration**

**Marc L. Weinberg**

**General Counsel**

**Support Staff**

**Willia Habersham**

**Staff Secretary**

**Lucille S. Parrish-White**

**Staff Attorney**

**Lori L. Schuster**

**Lead Secretary**

**Officers and Staff may be reached at the following address:**

**The Appraisal Subcommittee  
1776 G Street, NW, Suite 850B  
Washington, DC 20006**

**Phone: (202) 357-0133**

**Fax: (202) 357-0191**

**NOTES**