

The Appraisal Subcommittee – An Introduction

The Appraisal Subcommittee (“ASC”) of the Federal Financial Institutions Examination Council (“FFIEC”) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Title XI’s purpose is to “provide that Federal financial and public policy interests in real estate 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.” In general, the ASC oversees the real estate appraisal process as it relates to federally related transactions, as defined in Section 1121(4) of Title XI. The ASC is an FFIEC subcommittee. The FFIEC was established pursuant to Title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 to create an interagency body empowered to prescribe uniform principles for the Federal examination of regulated financial institutions.

The ASC has six members, each designated respectively by the heads of the Office of the Comptroller of the Currency (“OCC”), the Board of Governors of the Federal Reserve System (“FRB”), the Federal Deposit Insurance Corporation (“FDIC”), the Office of Thrift Supervision (“OTS”), and the National Credit Union Administration (“NCUA”), collectively, the Federal financial institutions regulatory

agencies (“Agencies”), and the U.S. Department of Housing and Urban Development (“HUD”). Section 1103 of Title XI sets out the ASC’s general responsibilities:

- Monitor the requirements established by the States, territories, and the District of Columbia (“States”) and their appraiser regulatory agencies (“State agencies”) for the certification and licensing of appraisers. The ASC reviews each State’s compliance with the requirements of Title XI and is authorized by Title XI to take action against non-complying States;
- Monitor the requirements established by the Agencies 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;
- Maintain a national registry of State licensed and certified appraisers (“Registry”) who may perform appraisals in connection with federally related transactions;
- Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (“Foundation”); and
- Transmit an annual report to Congress regarding the activities of the ASC during the preceding year.

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Message from the Chairman

In 2001, the national program of appraisal regulation envisioned by Title XI marked its eighth year of full operation, with related Federal and State regulatory programs working to fulfill Title XI's purposes. Contributing to this progress were the actions taken by the ASC, the States, the Foundation, including its Appraiser Qualifications Board ("AQB") and Appraisal Standards Board ("ASB"), the Agencies, and HUD.

The ASC's expenses for the fiscal year ("FY") ending September 30, 2001, were \$1,837,264. This amount included \$613,914 in grant payments to the Foundation. The ASC's FY 2001 audited financial statements are presented in Appendix A.

The ASC continued to receive Registry submissions from all 50 States, plus the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and Puerto Rico. At year-end, the Registry contained over 87,000 entries pertaining to more than 75,000 individual appraisers. During FY 2001, the ASC received Registry fees totaling \$2,188,345.

The ASC continued its third cycle of on-site reviews of State agencies, with ASC staff visiting 20 States. The review cycle focused primarily on how States were enforcing compliance with Title XI and ASC Policy Statements.

While the ASC continued to find most States in substantial compliance with the intent of Title XI, problem areas continued to be identified. Most of them involved restrictive temporary practice procedures, slow complaint resolution processing, and continuing education practices that failed to conform with the AQB's qualifications criteria for certification. Other areas concerned State statutory and regulatory conflicts with Title XI and the AQB's qualifications criteria for certified appraisers. The ASC continued to address these problem areas on a case-by-case basis within the framework of its State

agency oversight program. The ASC's *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* continued to contribute to greater consistency in the implementation and interpretation of Title XI. These Policy Statements are presented in Appendix B.

All States continued to have laws in place requiring applicants to meet at least the AQB-established minimum qualification criteria for certified appraisers and to pass a AQB-approved examination.

The ASC continued to provide State agencies, regulated financial institutions, other users of appraisal services, and the general public with Internet access to its National Registry. The ASC worked closely with its Web site contractor and State agencies to ensure the system's smooth operation, balancing the public's need for the best information and State agency systems and fiscal restraints.

The Registry enabled users to determine, almost instantaneously, whether a person is certified or licensed to perform appraisals in connection with federally related transactions and whether that person's credential has been suspended, revoked or surrendered in lieu of State enforcement action. It also enabled users, in particular, financial institutions, to be notified automatically by Internet email each day about new revocations, suspensions, surrenders, and certificate/license expirations. The entire public portion of the Registry may be downloaded, and predefined queries and user-customized queries are available for all releasable information. Access to the full database, which includes some non-public data, *e.g.*, certain disciplinary action information, is restricted to authorized State agency representatives. All of these services were provided to the public at no direct cost. The Registry, among other things, facilitated temporary practice and reciprocity, assisted State agencies in enforcing their appraiser-related statutes and regulations, and en-

abled users of appraiser services to easily identify certified or licensed appraisers.

The National Registry is but one feature of the ASC's Web site (<http://www.asc.gov>). The Web site also was designed to provide a wealth of information to the public. The ASC made publicly available for reading and downloading its *Federal Register* documents; Title XI; rules and regulations; Policy Statements; charts summarizing State appraiser requirements; and State agency contact persons, addresses, telephone numbers and Internet links. The Web site also has a comprehensive Freedom of Information Act "reading room" conforming to the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C 552(a)(2).

The ASC continued to monitor and review the activities of the Foundation and to fund the portions of its expenses that relate to Title XI-related activities of the ASB, the AQB, and the membership activities of its Board of Trustees. The ASC approved a 2001 grant of \$835,390 to support the activities of the Foundation's Board of Trustees and the ASB and AQB.

The ASC continued to work closely with the Agencies as part of its ongoing responsibility to monitor the requirements established by the Agencies regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of a State licensed or State certified appraiser.

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Administration of the ASC

ASC meetings are held monthly. The ASC has six members, each designated respectively by the heads of the Agencies and HUD. Title XI requires the FFIEC to appoint a chairman from the members for a two-year term.

ASC members and their terms of service were:

- Chairman, Thomas E. Watson, Jr., National Bank Examiner, Credit Risk Division, OCC, March 2000 to present, Alternate Member, April 1997 to March 2000;
- Member, Virginia Gibbs, Senior Supervisory Financial Analyst, Division of Banking Supervision and Regulation, FRB, November 1997 to present, Alternate Member, November 1992 to November 1997 (Alternate Member, Arleen Lustig);
- Member, Jesse G. Snyder, Assistant Director, Policy, Division of Supervision, FDIC, December 1997 to present;
- Member, John C. Price, Jr., Director of Supervision Policy, OTS, February 1999 to present;
- Member, Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, NCUA, July 1994 to present (Alternate Member, Owen Cole); and
- Member, Mark W. Holman, Director, Home Mortgage Insurance Division, HUD, April 1995 to present.

Non-voting Agency representatives assisting ASC Members in performing their duties were:

- James D. Leitner, Examination Specialist, FDIC; and
- Deborah Merkle, _____, OTS.

The ASC employed the following staff persons:

- Ben Henson, Executive Director;
- Marc L. Weinberg, General Counsel;
- Kathryn Gearheard, Senior Appraisal Policy Manager;
- Vicki A. Ledbetter, Appraisal Policy Manager;
- Dennis R. Greene, Sr., Appraisal Policy Manager;
- Lori L. Schuster; Administrative Officer; and
- Ray M. Seward, Information Management Specialist.

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Monitoring State Appraiser Regulatory Agencies

The ASC must monitor each State's appraiser licensing and certification regulatory program to ensure that it: (1) recognizes and enforces the standards, requirements, and procedures prescribed by Title XI; (2) has adequate authority to permit it to carry out its Title XI-related functions; and (3) makes decisions concerning appraisal standards, appraiser qualifications, and supervision of appraiser practices consistent with Title XI. The ASC, in general, satisfies these responsibilities by performing on-site field reviews of State agency programs and maintaining close communications with, among others, appraisers, State and Federal agencies, and users of appraisal services. In 1997, the ASC determined that each State appraiser regulatory program should be reviewed routinely at least once every three years. Additional reviews also would be scheduled on an as-needed basis. Accordingly, the ASC performed 19 on-site State reviews and one follow-up review during 2001.

On-Site Monitoring Program

Each field review assesses every facet of a State's appraiser regulatory program. Particular emphasis is placed on the State agency's enforcement program. Reviews usually are scheduled to coincide with a meeting of the State agency's decision-making body and are conducted over two to three days. ASC staff reports its findings and recommendations to the ASC, and the ASC issues a comment letter to the State agency. Further efforts to address compliance issues occur, as necessary.

While most State agencies performed their Title XI-related activities in a responsible manner, some problem areas were identified:

- *Compliance*—In nine States, the ASC found statutes, regulations, or practices that were inconsistent with various provisions of the AQB's

Qualifications Criteria for certified appraisers. For example, States awarded experience credit for teaching appraisal related courses or for real estate sales experience; approved distance education courses from non-AQB recognized course providers; approved without individual review education courses offered by sponsors of the Foundation; or awarded education credit for courses with no appraisal-related content. The ASC also found that three States were not validating educational claims of applicants, as recommended in ASC Policy Statement 10;

- *Temporary Practice*—The ASC found inconsistencies with Title XI and ASC Policy Statement 5 in ten State temporary practice programs. These inconsistencies, among other things, included limiting a certified or licensed appraiser to only a single permit per year, issuing permits for less than six months, not issuing permits within five days of receipt of a complete application, or not providing appraisers with an easy way to renew permits. At year-end, these problems had been, or were in the process of being, resolved; and
- *Enforcement*—Ten States did not resolve complaints expeditiously; were inconsistent in applying disciplinary sanctions; or did not adequately document enforcement-related files. One State did not forward disciplinary actions to the ASC, as required by Title XI and ASC Policy Statement 9.

The ASC sent field review letters to each State agency, detailing the ASC's concerns and followed up on these concerns. In addition, one follow-up visit was conducted to more closely monitor a State's progress in correcting identified deficiencies. The resulting changes continued to improve State appraiser regulatory programs.



Activities of the Agencies and HUD

Following Title XI's adoption in 1989, each of the Agencies adopted appraisal-related rules and policies implementing the Title. The Agencies' appraisal regulations are contained in volume 12 of the Code of Federal Regulations at: part 34, subpart C (OCC); part 208 and part 225, subpart G (FRB); part 323 (FDIC); part 564 (OTS); and part 722 (NCUA). The OCC, FRB, FDIC, and OTS jointly adopted Interagency Appraisal and Evaluation Guidelines in October 1994. The Agencies did not make any changes to their appraisal-related rules and policies during 2001.

HUD, however, on November 30, 2001, proposed several regulatory changes to 24 CFR 200.202 and 204 concerning its Federal Housing Administration ("FHA") Appraiser Roster. The Roster lists appraisers who are eligible to perform FHA single-family appraisals. The proposals were designed to strengthen the licensing and certification requirements for placement on the Roster. The proposed rule would require appraisers to have professional credentials based on the minimum licensing/certification standards issued by the AQB.

The proposed rule also would clarify that an appraiser may be removed from the Roster if the appraiser lost his or her license or certification in any State due to disciplinary action, even if the appraiser continued to be licensed or certified in another State. Finally, the proposed rule would provide that an appraiser who is licensed or certified in a single State and whose license or certification had expired, or had been revoked, suspended or surrendered as a result of a State disciplinary action, would be automatically suspended from the Roster until HUD received evidence demonstrating renewal or that the State imposed sanction was lifted. Comments on the proposal were due by January 29, 2002.

Agency and HUD staff members participated in a number of appraisal/banking related meetings. Throughout the year, the Agencies were represented at meetings of The Appraisal Foundation Advisory Council, Association of Appraiser Regulatory Officials, ASB, and AQB. ASC members and staff also attended the Risk Management Association's Chief Appraiser Roundtable to maintain a dialogue with members of the lending community.

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Activities of the Appraisal Foundation

The Foundation is a private, not-for-profit corporation chartered by Title XI with the responsibility of establishing, improving, and promoting minimum uniform appraisal standards and appraiser qualifications criteria. The Foundation serves as the parent organization for two independent boards established to accomplish this mission: the ASB and AQB. These Boards respectively promulgate and maintain USPAP and the Appraiser Qualifications Criteria ("Criteria").

The Foundation also ensures that information regarding USPAP and the Criteria is disseminated to State and Federal regulators, appraisers, users of appraisal services, and the general public. The Foundation sells printed copies of USPAP and provides copies of the Criteria at no charge. This information is also available at no charge on the Foundation's Web site. The Foundation also provides every licensed and certified appraiser with three complimentary newsletters annually. These newsletters highlight the Boards' activities; note any changes, modifications or clarifications respecting USPAP or the Criteria; and invite comments on issues being addressed by the Boards. In addition, the Foundation sponsors appropriate activities relating to standards, qualifications, and issues of importance to appraisers and users of appraisal services.

Title XI requires that the ASC provide grants to the Foundation in such amounts as the ASC deems appropriate to support the Title XI-related activities of the Foundation, *i.e.*, the activities of the ASB and the AQB. Title XI also requires the ASC to monitor and review the practices, procedures, activities, and organizational structure of the Foundation. In that regard, the ASC and its staff monitored and reviewed the following activities in 2001.

Board of Trustees

The Foundation is headed by a 28-member Board of Trustees ("Trustees"), ten of which are elected at-large. The balance of the Board is ap-

pointed by the Foundation's sponsoring organizations and advisory councils. During 2001, Tharrell Ming served as Chair, and D.Allan Beatty served as Vice Chair.

During 2001, the Trustees, among other things, monitored the activities of the Boards and Advisory Councils and amended one of its Bylaws. The Bylaw amendment added a third Foundation advisory council, the Education Council of Appraiser Foundation Sponsors.

Appraiser Qualifications Board

The AQB accomplished the following items in three public meetings:

Improved USPAP Instruction Program

The AQB worked with the ASB in developing an Instructor Course and Exam to be used for the Program to Improve USPAP Education. Both Boards, along with selected individuals, met twice to develop and review the course and examination materials. The final courses and examinations will be held at major hub cities beginning in 2002.

Rewriting the Real Property Appraiser Qualification Criteria

In February 2001, the AQB held a public forum in San Francisco, CA. Panels were comprised of various representatives from the appraisal profession, including State and Federal regulators, users of appraisal services, and professional appraisal associations. In July, the AQB released a Discussion Draft incorporating the comments presented to the Board at the February meeting. After receiving comments on the Discussion Draft, the Board issued an Exposure Draft for public comment in January 2002.

The AQB also revised the Distance Education Interpretations by separating approval of course con-

tent from the course's design and its delivery mechanism. Course content could be approved by either the AQB, through its Course Approval Program, or by the State agency where the course is being offered. The course's design and delivery mechanism could be approved by The International Distance Education Certification Center.

Real Property Appraiser Examination Project

The AQB completed updating the Real Property Exam Content Outlines, on which State licensing and certification examinations are based.

AQB Course Approval Program

The AQB approved 23 courses in 2001, bringing the year-end total of courses approved to 49. These courses are posted on the Foundation's Web site. This voluntary program facilitates State approval of appraisal courses.

Appraisal Standards Board

The ASB took the following actions in three public meetings. The fourth public meeting scheduled for September was canceled due to the events on September 11th.

Uniform Standards of Professional Appraisal Practice

The Foundation published the 2002 USPAP, its tenth edition, which became effective on January 1, 2002.

USPAP Revisions and Interpretations

The ASB made several revisions to the 2001 USPAP, including a new definition for "jurisdictional exception." The ASB also changed the Supplemental Standards Rule to clarify between "contract matters" and supplemental standards. To address new Federal privacy requirements, the ASB changed the Confidentiality section of the Ethics Rule regarding the use of professional peer review committees, added a note referencing the Privacy Provisions of the Gramm-Leach-Bliley Act, and removed the Statement on Appraisal Standards No. 5 (SMT-5). These changes were effective July 1, 2001. The Statement on Appraisal Standards No. 8 (SMT-8) dealing with the electronic transmission of reports was retired. Standards Rule 6 was revised to conform its design and structure to other Standards.

Frequently Asked Questions ("FAQ")

The ASB updated the FAQ publication. In the 2002 edition, the ASB removed all outdated information and references, updated current questions, and added additional material.

Certified Improved USPAP Instructor Program

The ASB worked with the AQB in developing an Instructor Course and Exam to be used for the Program to Improve USPAP Education. Both Boards, along with a select group of individuals, met two times in 2001 to develop and review the material. Members of the ASB will be teaching the Instructor Certification Courses in 2002.

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Financial Status of the ASC

In FY 1989, the ASC received a one-time appropriation of \$5 million to fund its start-up operations. The appropriation was an advance from the United States Treasury and disbursements made using these monies had to be repaid. During FY 1998, the ASC completely repaid the Treasury advance under Section 1108(c) of Title XI, which required repayment by the end of FY 1998.

Fiscal year 1990 was the first year in which the ASC incurred operating expenses. In January 1992, the States began remitting to the ASC an annual fee of \$25 for each licensed or certified appraiser added to the Registry. Until June 1994, the ASC

operated on its appropriation. Since then, the ASC has been funding its operations from Registry fees. Fees received during FY 2001 totaled \$2,188,345.

Appendix A contains the ASC's FY 2001 audited financial statements. They show that the ASC's financial position improved since the previous year. Total assets increased, while liabilities decreased. The fund balance increased over last year's positive amount. The external auditors did not find any material weakness involving the ASC's internal control structure and its operation or any material instances of noncompliance with selected provisions of applicable laws and regulations tested.

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