



APPRAISAL SUBCOMMITTEE  
*Federal Financial Institutions Examination Council*

ANNUAL  
REPORT  
2004

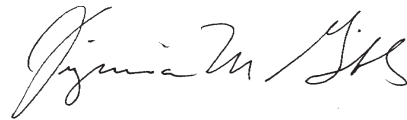
## Letter of Transmittal

March 16, 2005

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

Pursuant to Section 1103 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332), I am pleased to submit the 2004 Annual Report of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Virginia M. Gibbs". The signature is fluid and cursive, with a large initial "V" and "G".

Virginia Gibbs  
Chairman

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## 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 (“Agen-

cies”), 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 2004, the national program of appraiser regulation envisioned by Title XI marked its eleventh year of full operation, with related Federal and State regulatory programs working to fulfill Title XI's purposes. Overall, all States have laws in place requiring persons seeking to become certified appraisers to meet at least the Appraiser Qualifications Board ("AQB")-established minimum qualification criteria for certified appraisers and to pass an AQB-approved examination. Moreover, all States have laws in place requiring certified and licensed appraisers to conform to the Uniform Standards of Professional Appraisal Practice ("USPAP"), as adopted by the Appraisal Standards Board ("ASB"), when performing appraisals in connection with federally related transactions and other real estate related financial transactions as required by Title XI and other Federal law.

The ASC's expenses for the fiscal year ("FY") ending September 30, 2004, were \$2,105,000. This amount included \$803,000 in grant payments to the Foundation. The ASC's FY 2003 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 98,000 entries pertaining to more than 84,000 individual appraisers. During FY 2004, the ASC received Registry fees totaling \$2,525,000.

The ASC continued its fourth cycle of on-site reviews of State agencies, with the ASC completing reviews of 19 States. These reviews focused primarily on assessing the selected States' compliance with Title XI and the *ASC Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* ("ASC Policy Statements").

While the ASC found that some reviewed States were in substantial compliance with the intent of

Title XI, there was a marked increase in the number of identified problem areas. During 2004's reviews, the ASC identified 76 problem areas. In contrast, the ASC discovered a total of 123 problem areas during the entire previous three-year review cycle. The identified problems included: slow complaint investigation and resolution; failure to adopt the AQB's January 1, 2003 certification criteria changes; restrictive temporary practice procedures and burdensome fees; failure to conform to the AQB's certification criteria Interpretation regarding the two-year validity of examination results; and acceptance of affidavits for education or experience without having a reliable method of validating those claims. Other problem areas included State statutory and regulatory conflicts with Title XI requirements and the AQB's qualifications criteria for certified appraisers. The ASC continued to address identified problem areas on a State-by State basis.

The ASC Policy Statements continued to serve as the ASC's central tool in its review of State appraiser regulatory programs. The ASC Policy Statements contribute to greater consistency in the implementation and interpretation of Title XI. These Policy Statements are presented in Appendix B.

After requesting comments from State agencies, the ASC adopted two amendments to the ASC Policy Statements. Both amendments become effective on January 1, 2005.

The ASC amended ASC Policy Statement 1: *State Regulatory Structure and Independence of Functions*, to provide guidance on State agency use of private entities (*i.e.*, third parties) assisting States in performing their appraiser regulatory functions. Through its field review process, the ASC identified several States contracting with private entities to perform various appraiser regulatory tasks. In certain instances, the private entities took actions that did not comply with Title XI. Under the amended policy, if a State agency uses a private entity, the

State should establish appropriate internal controls, procedures, and safeguards to ensure that private entities perform their duties in an effective and consistent manner in compliance with the State's responsibilities under Title XI. State agencies remain responsible for ensuring that private entities comply with Title XI when performing those tasks. The amendment, among other things, also addresses a State's responsibility to ensure that the State and the ASC have access to the private entity's records and operations pertaining to Title XI-related State agency appraiser regulatory activities.

The ASC also amended ASC Policy Statement 10: *Enforcement*, concerning the use of affidavits or other affirmations regarding appraiser experience and education. This amended policy statement sets specific requirements for State agencies regarding the acceptability of affidavits and other affirmations concerning experience and education when issuing initial certifications, credential upgrades to certifications, and certification renewals.

During the past two years, the ASC performed field reviews on several States that accept affidavits for qualifying education and experience or continuing education. Some of these States did not perform any type of review or audit regarding these affidavits. As a result, individuals who did not have the required amounts of education, experience, or continuing education under Title XI were allowed to perform appraisals in connection with federally related transactions.

The new policy, among other things, prohibits States from accepting experience-related affidavits from applicants for certification (*i.e.*, Certified Residential or Certified General classifications). States, however, can accept education-related affidavits from applicants for initial certification, provided that the States verify that each claimed education course is acceptable under AQB Criteria, and that the applicant has successfully completed each course.

In accordance with the new policy, States may accept continuing education-related affidavits from

certified appraisers for credential renewal. Each State accepting affidavits for certified appraiser credential renewals must establish a reliable means of validating the affidavits. These validation procedures need to include a prompt post-approval audit of an adequate number of affidavits to have an acceptable chance of identifying appraisers who fail to comply with Federal and State law.

The new Policy Statement sets out several audit requirements and requires States to take certain additional actions if ten percent or more of its audited appraisers fail to meet AQB criteria.

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 Registry allows 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. By making this information available, the Registry, among other things, facilitated temporary practice and reciprocity, assisted State agencies in enforcing their appraiser-related statutes and regulations, and enabled users of appraisal services to easily identify certified or licensed appraisers.

Financial institutions, and other Registry users, also are able to receive automatic notifications 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 are provided to the public for no fee.

The National Registry is but one feature of the ASC's Web site (<http://www.asc.gov>). The Web site was designed to provide a wealth of information to

the public. The public can read and download ASC *Federal Register* documents; Title XI; ASC rules and regulations; ASC Policy Statements; charts summarizing State appraiser requirements; and State agency contact persons, addresses, telephone numbers, and Internet links. In addition, 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).

During 2004, the ASC upgraded the functionality of its Web site by adding:

- Each State’s expiration cycle to the Active Appraiser Summary Report;
- A free-form search function to the FOIA Reading Room’s Correspondence areas;
- A Web page showing the agenda for the next ASC meeting, together with the ASC’s new open meeting policies; and

- A Web page informing the public of each State’s progress towards implementing the January 1, 2008 AQB Criteria changes.

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. These activities are discussed in more detail below. The ASC approved a 2004 grant of \$901,000 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.





## 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.

During 2004, ASC members and their terms of service were:

- Chairman, Virginia Gibbs, Senior Supervisory Financial Analyst, Division of Banking Supervision and Regulation, FRB, November 1997 to present, Alternate Member, November 1992 to November 1997;
- Chairman (until March 2004), Steven D. Fritts, Associate Director, Risk Management Policy/Examination Support, Division of Supervision and Consumer Protection, FDIC, October 2002 to Present (Alternate Member, James D. Leitner);
- Member, Dena Patel, Credit Risk Specialist, Credit Risk Division, OCC, October 2004 to present.
- Member, Thomas E. Watson, Jr., National Bank Examiner, Credit Risk Division, OCC, March 2000 to September 2004. Alternate Member, April 1997 to March 2000;
- Member, Debbie Merkle, Project Manager, Credit Risk, OTS, December 2004 to present.
- Member, John C. Price, Jr., Director of Supervision Policy, OTS, February 1999 to November 2004;
- Member, Tawana Y. James, Deputy Director, Office of Examination and Insurance, NCUA, February 2003 to present (Alternate Member, Larry Fazio); and
- Member, Joyce Richardson Johnson, Division Director, Home Valuation Policy Division, HUD, December 2002 to present;

The ASC employed the following staff persons:

- Ben Henson, Executive Director;
- Marc L. Weinberg, General Counsel;
- Vicki A. Ledbetter, Appraisal Policy Manager;
- Jenny Howard Tidwell, Appraisal Policy Manager;
- Denise Graves, 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 the State: (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 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 are conducted on an as-needed basis. During 2004, the ASC performed 18 on-site State reviews, and one follow-up review.

## 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, several

problem areas were identified:

- *Compliance*—In all but one of the 18 State reviews, the ASC found statutes, regulations, or practices that were inconsistent with various provisions of the AQB's qualifications criteria for certified appraisers. In several cases, States failed to incorporate into their statutes or regulations the AQB's January 1, 2003 certification criteria changes; accepted exam results that were over two-years old; awarded education credit for courses with no appraisal-related content; accepted affidavits or other affirmations regarding qualifying experience and education and/or continuing education without having a reliable means of validating them to ensure that AQB requirements were met; or allowed appraisers to continue appraising without meeting AQB continuing education requirements.
- *Temporary Practice*—The ASC found inconsistencies with Title XI and ASC Policy Statement 5 in seven State temporary practice programs. These inconsistencies, among other things, included issuing permits for less than six months; not providing appraisers with an easy way to renew permits; and charging excessive temporary practice fees. At year-end, these problems had been, or were in the process of being, resolved; and
- *Enforcement*—Eleven States did not resolve complaints expeditiously or did not adequately document enforcement-related files. Three States did not forward disciplinary actions to the ASC, as required by Title XI and ASC Policy Statement 9.

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## Activities of the Agencies and HUD

Following Title XI's adoption in 1989, each Agency adopted appraisal-related rules and policies implementing the Title. The Agencies' appraisal regulations are in volume 12 of the Code of Federal Regulations at: part 34, subpart C (OCC); parts 208 and 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.

As reported in last year's Annual Report, HUD published in the *Federal Register* final regulatory changes to 24 CFR 200.202 and 204 concerning its FHA Appraiser Roster. See 68 FR 26945. The Roster lists appraisers who are eligible to perform FHA single family appraisals. The rule, among other things, requires appraisers to have professional credentials based on the AQB's minimum licensing and certification criteria. That require-

ment became fully effective on June 16, 2004. A few States have adopted licensing standards that are lower than those in the AQB's licensing criteria. Because licensed appraisers must meet the AQB's minimum licensing requirements to perform FHA single family appraisals, many appraisers licensed in those States now have chosen to meet the AQB's criteria to remain on FHA's Appraiser Roster.

Finally, 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 charged by Title XI with the responsibility to establish, improve, and promote uniform appraisal standards and minimum 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 ensures that USPAP and the Criteria are disseminated to State and Federal regulators, appraisers, users of appraisal services, and the general public. The Foundation sells printed copies of USPAP upon request and provides copies of the Criteria at no charge. This information also can be accessed at no charge on the Foundation’s Web site. The Foundation continued its electronic newsletter, *Foundation e-News*, which is available free to subscribers. In January 2004, the Foundation distributed its annual hardcopy complimentary newsletter, the “Summary Report,” to every licensed and certified appraiser. The newsletter provided a recap of 2004’s changes to USPAP and the Criteria.

The Foundation sponsored several initiatives to promote a better understanding of USPAP and the Criteria. Among other things, the Foundation established a task force to assist States and other affected persons to understand the changes to the Criteria that will become effective on January 1, 2008. AQB and ASB members also participated in several speaking engagements throughout the United States.

Title XI authorizes the ASC to 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 2004.

### **Board of Trustees**

The Foundation is led by a 27-member Board of Trustees, charged with appointing members to the AQB and the ASB, as well as providing oversight of the activities and funding of these Boards. Ten members of the Board of Trustees are elected at-large, with the balance of the Board being appointed by the Foundation’s Sponsoring Organizations and Advisory Councils.

During 2004, James B. “Nardie” Vine of San Antonio Texas served as Chair and Peter J. Clark of Vancouver, British Columbia served as Vice Chair.

### **Appraiser Qualifications Board**

The AQB accomplished the following items in four public meetings:

#### 2008 Criteria Revisions

After six Exposure Drafts over more than two years, the AQB, on February 20, 2004, adopted significant revisions to the Criteria. The revisions become effective on January 1, 2008. Among other things, the new Criteria include an increased qualifying education standard in each license and certification category. Under the new Criteria, applicants for certified residential and certified general credentials will need 200 (not 120) and 300 (not 180) hours, respectively, of appraisal education.

In addition, the certified levels will require completion of college level coursework. To qualify for Certified Residential classification, applicants will have to earn an Associate Degree or higher. In lieu of a degree, applicants may complete a minimum of 21 semester hours in AQB-specified subject matter topics. Applicants for a Certified General classification will need a Bachelors Degree or higher. In lieu

of a Bachelors Degree, applicants may complete at least 30 semester hours in AQB-specified subject matter topics.

### Guidance Regarding Implementation

With the adoption of the new Criteria, the AQB began providing implementation guidance to States and others. In addition to speaking at meetings and drafting written materials, the AQB began developing informational conferences for State agencies and educational providers. These conferences will be presented at various locations throughout the United States and will be designed exclusively to facilitate implementation of the new Criteria.

### State Licensing and Certification Examinations

To reflect the changes in the new Criteria and to implement their higher standards, the AQB is revising the State licensing and certification examinations. The AQB is establishing more rigorous examinations and will segment them by topic (*i.e.*, USPAP, income capitalization, and sales comparison approach to value).

### Improved USPAP Instruction Program

The AQB continued to work with the ASB and Foundation staff to improve the AQB Certified USPAP Instructor Certification Course and examination. By 2004 year end, over 500 individuals had passed the course and had been certified by the AQB as AQB-Certified USPAP Instructors.

For the first time, the AQB began recertifying AQB Certified USPAP Instructors. Instructors must complete a 7-hour Instructor Recertification Course (and pass an exam, if applicable) every two years. To retain their certifications, Instructors originally certified in 2002 had to meet this requirement.

### Course Approval Program

The AQB approved 18 additional courses, bringing the total approved courses to 87. In addition, by 2004 year end, 15 courses had been approved

as equivalent to the National USPAP Courses. All approved 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 four public meetings:

#### Uniform Standards of Professional Appraisal Practice

The Foundation published the 2005 USPAP, its thirteenth edition, incorporating the revisions approved in 2004. The new edition became effective on January 1, 2005.

#### USPAP Revisions and Interpretations

The ASB published for public comment and adopted several revisions to USPAP, including revisions to the definitions of "Appraisal Review," "Cash Flow Analysis" and "Report"; edits regarding the term "purpose"; and added language to clarify the requirements for reports to include citation of the source of the value definition used.

The ASB edited Standards Rules 1-3(b), 2-1, 2-2, 2-3, 3-2, 5-1, 5-2, 5-3, 6-2(k), 6-7, 6-8, 8-1, 8-2, 8-3, 10-1, 10-2, 10-3, Standard 3 and Statement On Appraisal Standards Nos. 6 (SMT-6), 7 (SMT-7), and 10 (SMT-10). The ASB also added a new topical index. The changes were made in an effort to improve clarity, consistency, and accuracy.

The ASB retired Advisory Opinion 6 (AO-6) because more recent guidance had been issued by the ASB. Advisory Opinion 21 (AO-21) was re-titled "USPAP Compliance" and revised with the intent of providing greater clarity as to an appraiser's obligation for complying with USPAP.

#### The Role of Departure and Scope of Work

Following up on the two concept papers issued in 2003, the ASB issued, in 2004, two Exposure Drafts on this subject. Based on the response to these Exposure Drafts, the ASB intends to issue two,

and possibly three, more Exposure Drafts in 2005. The ASB hopes that final changes will be reflected in the 2006 edition of USPAP, with an effective date of July 1, 2006.

#### Frequently Asked Questions (“FAQ”)

The ASB updated the Frequently Asked Questions publication. In the 2004 addition, additional items were added and questions that were no longer appropriate were deleted.

#### National USPAP Courses

To reflect modifications to USPAP, the ASB updated and revised the course content of both the 15-hour and 7-hour National USPAP Courses.

#### Improved USPAP Instruction Program

The ASB continued to work with the AQB and Foundation staff to improve course and examination

material for the AQB Certified USPAP Instructor program. In 2004, ASB members taught the 2½ day course six times to over 150 persons throughout the United States. To date, the ASB has presented the course a total of 35 times to over 1,000 persons.

In 2004, the ASB also developed the 7-hour Instructor Recertification Course, which all AQB Certified USPAP Instructors are required to complete every two years. In 2004, ASB members taught the Instructor Recertification Course four times to over 150 Instructors.

#### USPAP Update for State Regulators

In conjunction with the classroom offering of the USPAP Update Course for State regulators on October 9, 2004, the ASB also offered the program via the Internet. In addition, the program was archived for online viewing at any time, and was produced on compact discs that were distributed to each of the State regulatory agencies.

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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 2004 totaled \$2,525,000.

Appendix A contains the ASC's FY 2004 audited financial statements. The ASC's financial position improved since the previous year, with liabilities representing 28% of fund balances with Treasury in contrast to 27% in 2003. 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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# **APPRAISAL SUBCOMMITTEE**

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## **FINANCIAL STATEMENTS**

**SEPTEMBER 30, 2004**





# APPRAISAL SUBCOMMITTEE

## Financial Statements

September 30, 2004

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## INDEPENDENT AUDITORS' REPORT

To the Appraisal Subcommittee of the  
Federal Financial Institutions Examination Council

We have audited the accompanying statements of financial position of Appraisal Subcommittee as of September 30, 2004, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit. The financial statements of Appraisal Subcommittee as of September 30, 2003, were audited by other auditors whose report dated November 7, 2003, expressed an unqualified opinion on those statements.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Appraisal Subcommittee as of September 30, 2004, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 3, 2004 on our consideration of the Appraisal Subcommittee's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grants. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

  
Certified Public Accountants

December 3, 2004

# APPRAISAL SUBCOMMITTEE

## Statements of Financial Position

September 30,

	<u>Assets</u>	
	<u>2004</u>	<u>2003</u>
<b>Assets:</b>		
Fund balances with Treasury	\$ 5,678,492	\$ 5,088,891
Accounts receivable	284,802	231,352
Property and equipment, net	<u>9,463</u>	<u>5,774</u>
<b>Total Assets</b>	<b><u>\$ 5,972,757</u></b>	<b><u>\$ 5,326,017</u></b>

	<u>Liabilities and Net Position</u>	
<b>Liabilities:</b>		
Accounts and grants payable	\$ 306,883	\$ 323,151
Deferred revenues	1,248,125	1,017,000
Accrued expenses	<u>76,667</u>	<u>65,468</u>
<b>Total Liabilities</b>	<b><u>1,631,675</u></b>	<b><u>1,405,619</u></b>
<b>Net Position</b>	<b><u>4,341,082</u></b>	<b><u>3,920,398</u></b>
<b>Total Liabilities and Net Position</b>	<b><u>\$ 5,972,757</u></b>	<b><u>\$ 5,326,017</u></b>

*The accompanying notes are an integral part of the financial statements.*

# APPRAISAL SUBCOMMITTEE

## Statements of Operations and Changes in Net Position

For the Years Ended September 30,

	<u>2004</u>	<u>2003</u>
<b>Registry Fees</b>	<u>\$ 2,526,090</u>	<u>\$ 2,287,900</u>
<b>Operating Expenses</b>		
Personnel compensation and benefits	825,638	818,204
Rent, communications and utilities	187,968	187,169
Contracted services	120,935	140,015
Travel and transportation	111,020	45,517
Supplies and materials	22,682	24,385
Other expenses	11,005	10,143
Printing and reproduction	17,110	9,557
Depreciation	<u>5,408</u>	<u>4,072</u>
<b>Total Operating Expenses</b>	<u>1,301,766</u>	<u>1,239,062</u>
Appraisal Foundation Grant	<u>803,640</u>	<u>791,317</u>
<b>Total Expenses</b>	<u>2,105,406</u>	<u>2,030,379</u>
<b>Change in Net Position</b>	420,684	257,521
Net Position, Beginning of Year	<u>3,920,398</u>	<u>3,662,877</u>
<b>Net Position, End of Year</b>	<u>\$ 4,341,082</u>	<u>\$ 3,920,398</u>

*The accompanying notes are an integral part of the financial statements.*

# APPRAISAL SUBCOMMITTEE

## Statements of Cash Flows

For the Years Ended September 30,

	<u>2004</u>	<u>2003</u>
<b>Cash Flows from Operating Activities:</b>		
Change in net position	<u>\$ 420,684</u>	<u>\$ 257,521</u>
Adjustments to reconcile change in net position to net cash provided by operating activities:		
Depreciation	5,408	4,072
Change in assets and liabilities:		
Accounts receivable	(53,450)	32,100
Accounts and grants payable	(16,268)	2,840
Deferred revenues	231,125	(54,500)
Accrued expenses	<u>11,199</u>	<u>776</u>
Net cash provided by operating activities	<u>598,698</u>	<u>242,809</u>
<b>Cash Flows from Investing Activity:</b>		
Purchases of property and equipment	<u>(9,097)</u>	-
<b>Net Increase in Fund Balances with Treasury</b>	<b>589,601</b>	<b>242,809</b>
Fund Balances with Treasury, Beginning of Year	<u>5,088,891</u>	<u>4,846,082</u>
<b>Fund Balances with Treasury, End of Year</b>	<u><b>\$ 5,678,492</b></u>	<u><b>\$ 5,088,891</b></u>

*The accompanying notes are an integral part of the financial statements.*

# APPRAISAL SUBCOMMITTEE

## Notes to the Financial Statements

September 30, 2004 and 2003

Note 1 - **Organization**

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (the Appraisal Subcommittee) was created by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989. The mission of the Appraisal Subcommittee is to monitor the certification and licensing programs of the States to determine compliance with Title XI of FIRREA; monitor the activities of the Appraisal Foundation; and monitor the requirements established by the Resolution Trust Corporation and the Federal financial institutions regulatory 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. The mission of the Appraisal Subcommittee also includes the establishment of a national registry of certified and licensed appraisers.

The Federal financial institutions regulatory agencies include 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. The member agencies of the Appraisal Subcommittee include the Federal financial institutions regulatory agencies and the Department of Housing and Urban Development.

Title XI of FIRREA provided that funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under Title XI.

Note 2 - **Summary of Significant Accounting Policies**

**Fund Balance with Treasury**

Entity fund balances with Treasury are the amounts remaining as of fiscal year-end from which the Appraisal Committee is authorized to make expenditures and pay liabilities resulting from operational activity, except as restricted by law.

**Accounts Receivable**

Accounts receivable consists of amounts due to the Appraisal Subcommittee for registry fees. Management considers all amounts to be fully collectible; accordingly an allowance for doubtful debts has not been established.

# APPRAISAL SUBCOMMITTEE

## Notes to the Financial Statements

September 30, 2004 and 2003

Note 2 - **Summary of Significant Accounting Policies – Continued**

*Property and Equipment*

Property and equipment is stated at cost. Depreciation is computed using the straight-line method over estimated useful lives ranging from three to ten years.

*Deferred Revenues*

Registry fees received in advance are deferred and recognized as earned during the applicable fee year.

*Appraisal Foundation Grant*

Title XI of FIRREA provides that amounts appropriated for or collected by the Appraisal Subcommittee be used to make grants to the Appraisal Foundation to help defray those costs of the Appraisal Foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards. The grants are considered exchange transactions; accordingly, grant expense is recorded by the Appraisal Subcommittee as activities eligible under the grant agreements are conducted by the Appraisal Foundation.

*Use of Estimates*

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Note 3 - **Property and Equipment**

Property and equipment consists of the following at September 30,:

	<u>2004</u>	<u>2003</u>
Computer equipment	\$ 195,198	\$ 186,101
Furniture	<u>59,148</u>	<u>59,148</u>
	254,346	245,249
Less: accumulated depreciation	<u>244,883</u>	<u>239,475</u>
Net Property and Equipment	\$ <u>9,463</u>	\$ <u>5,774</u>



# APPRAISAL SUBCOMMITTEE

## Notes to the Financial Statements

September 30, 2004 and 2003

Note 4 - **Retirement and Benefit Plans**

The Appraisal Subcommittee contributes to the Civil Service Retirement System and the Federal Employees' Retirement System administered by the Office of Personnel Management for the benefit of U.S. Government employees. The retirement plans are participatory. Under the Civil Service Retirement System, the employer and employee each contribute 7 percent of salary to the plan. Under the Federal Employees' Retirement System, 13 percent of salary is contributed by the Appraisal Subcommittee and 0.8 percent of salary is contributed by the employee.

The Appraisal Subcommittee contributes up to 5 percent of base pay for participants in the Thrift Savings Plan under the Federal Employees Retirement System. Contributions by the Appraisal Subcommittee during fiscal year 2004 and 2003 for the Civil Service Retirement System and the Federal Employees' Retirement System aggregated approximately \$31,600 and \$77,300, respectively.

Although the Appraisal Subcommittee contributes a portion of pension benefits for its employees participating in the retirement plans and withholds the necessary payroll deductions from them, it has no liability for future payments to employees under those programs and is not accountable for the assets of the Civil Service and Federal Employees' Retirement Systems, nor does the Appraisal Subcommittee have actuarial data concerning the accumulated plan benefits or the unfunded pension liability relating to its employees. These amounts are reported by the Office of Personnel Management for the retirement systems and are not allocated to the individual employers. The Office of Personnel Management also accounts for all health and life insurance programs for retired Federal employees.

Note 5 - **Appraisal Foundation Grant**

Title XI of FIRREA provides that amounts appropriated for or collected by the Appraisal Subcommittee be used to make grants to the Appraisal Foundation to help defray those costs of the Appraisal Foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards. Since inception of the Appraisal Subcommittee on August 9, 1989, it has made grants to the Appraisal Foundation under which approximately \$8,000,000 was expended through September 30, 2004. As of September 30, 2004, the Appraisal Subcommittee has approximately \$452,000 in undistributed grant funding available to the Foundation for the grant year ending December 31, 2004.

# APPRAISAL SUBCOMMITTEE

## Notes to the Financial Statements

September 30, 2004 and 2003

Note 6 - **Interagency Transactions**

The Appraisal Subcommittee has a Memorandum of Understanding with the Federal Financial Institutions Examination Council (FFIEC) to share the costs of office space and certain office systems such as computers, telephone systems, copiers, and other similar equipment. The payments are due quarterly, as billed by the FFIEC. The Appraisal Subcommittee does not have a future commitment under this lease, as it is the ultimate responsibility of the Board of Governors of the Federal Reserve System. Base rent expense, exclusive of office equipment charges, totaled approximately \$176,400 and \$176,200 for the years ended September 30, 2004 and 2003, respectively.

In conducting its administrative operations, the Appraisal Subcommittee uses the services of various other Federal Agencies. The largest of the administrative service arrangements is with the U.S. General Services Administration for certain accounting and reporting functions, and processing of payroll and related benefits. Operating expenses of the Appraisal Subcommittee for fiscal year 2004 and 2003 include approximately \$23,000 and \$38,000, respectively for these services.

**REPORT ON COMPLIANCE AND ON INTERNAL  
CONTROL OVER FINANCIAL REPORTING  
BASED ON AN AUDIT OF FINANCIAL  
STATEMENTS PERFORMED IN ACCORDANCE  
WITH *GOVERNMENT AUDITING STANDARDS***



**INDEPENDENT AUDITORS' REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the Appraisal Subcommittee of the  
Federal Financial Institutions Examination Council

We have audited the financial statements of the Appraisal Subcommittee as of September 30, 2004, and have issued our report thereon dated December 3, 2004. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the Appraisal Subcommittee's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Appraisal Subcommittee's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

This report is intended solely for the information and use of the management of the Appraisal Subcommittee and is not intended to be and should not be used by anyone other than these specified parties.

*O'Connor & Drew, P.C.*  
**Certified Public Accountants**

December 3, 2004

## Appendix B–Policy Statements

### Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers

September 22, 1997

# Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers

## APPRAISAL SUBCOMMITTEE POLICY STATEMENTS REGARDING STATE CERTIFICATION AND LICENSING OF REAL ESTATE APPRAISERS

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## Introduction

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, (“FIRREA”) entitled the “Real Estate Appraisal Reform Amendments,” established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (“ASC”). The ASC consists of representatives appointed by the heads of 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 (“Federal financial institutions regulatory agencies” or “Agencies”) and the Department of Housing and Urban Development.

The ASC, among other things, is charged with monitoring the certification and licensing programs for real estate appraisers in each State to determine whether the State’s policies, practices and procedures are consistent with Title XI and enforcing the State’s compliance with the requirements of Title XI. This statute also requires the ASC to maintain a national registry of State licensed and certified appraisers and to ensure that each State appraiser certifying and licensing agency (“State agency”) transmits to the ASC a roster of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions, along with an annual registry fee. States may establish and maintain procedures for certifying, licensing, supervising and disciplining individuals who are qualified to perform real estate appraisals in connection with Federal financial and public policy interests, including a code of professional responsibility as evidenced by the Uniform Standards of Professional Appraisal Practice (“USPAP”), as adopted by the Appraisal Standards Board of the Appraisal Foundation (“ASB”). Title XI, and other Federal statutes and regulations<sup>1</sup> requiring the use of State certified or licensed appraisers, necessarily rely on States to perform their real estate appraiser related duties in a responsible manner.

In exercising its oversight responsibilities, the ASC reviews each State’s overall appraiser regulatory program to determine compliance with Title XI. All of a State’s requirements and policies need not be specifically set forth in statutes, but may be established by regulation, procedure or practice. Conversely, an otherwise adequate set of statutes or regulations can be undermined by inadequate implementation. In general, the ASC considers each State appraiser regulatory program to be valid unless the ASC formally rejects or disapproves the program using the procedures in 12 U.S.C. 3347 and 12 CFR part 1102, subpart B.

In general, State agencies should take appropriate steps to ensure that each person seeking to qualify as a State certified or licensed appraiser has demonstrated his or her competency. To demonstrate competency, the ASC believes that States should ensure that appraisers meet appropriate education, testing and experience requirements. Moreover, State agencies should ensure that State certified or licensed appraisers continue to perform their assignments in a competent and ethical manner.

Federal or State statutes or regulations may prescribe which transactions must have an appraisal performed by a State certified or licensed appraiser. For federally regulated financial institutions, Title XI generally requires that State certified real estate appraisers perform all appraisals in connection with federally related transactions over \$1 million and complex one-to-four family residential properties. The Agencies have adopted comprehensive regulations and policies specifying when appraisals by State certified or licensed appraisers must be obtained by regulated financial institutions.

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<sup>1</sup>Two Federal statutes, Title XI and 12 U.S.C. 1708(e)(B), require the use of State certified or licensed real estate appraisers, as do certain Federal regulations and policies such as the Department of Transportation’s regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Office of Management and Budget Circular No. A-129 and Bulletin No. 92-06, and the Uniform Standards for Federal Land Acquisitions.



## Purpose

The ASC is issuing these Policy Statements to assist the States in the continuing development and maintenance of appropriate organizational and regulatory structures for certifying, licensing and supervising real estate appraisers. These Statements reflect the general framework that the ASC is using to review a State's program for compliance with Title XI. These Statements: (1) supersede the ASC's Policy Statements that were adopted on August 4, 1993; (2) incorporate new Policy Statements 5 and 6 on temporary practice and reciprocity, which were published, respectively, at 62 FR 19755 (April 23, 1997) and 23777 (May 1, 1997); (3) include new guidance on several issues, such as the National Registry and (5) reflect non-substantive, stylistic edits to the earlier version.

## Statement 1: State Regulatory Structure and Independence of Functions

The ASC does not impose any particular organizational structure upon the States. It is recognized that each State may have legal, fiscal, regulatory or other valid constraints that determine the structure and organization of its State agency. States, however, should adopt and maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest or the appearance of such conflicts. Ideally, States should maintain totally independent State agencies answerable only to the governor or a cabinet level official who has no regulatory responsibility for real estate licensing/certification, promotion, development or financing functions (“realty related activities”). A State, however, may choose to locate its State agency within an existing regulatory body. Any State with its appraiser regulatory function in a department that regulates realty related activities must ensure that adequate safeguards exist to protect the independence of the appraiser regulatory function.

A State agency may be headed by a board, commission or individual. The organizational structure should provide maximum insulation for the State 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.

Persons appointing officials to a State agency should not be associated or affiliated with an affected industry, i.e., they should not have a direct or indirect financial interest in realty related activities. A State agency head, appointed by the governor and confirmed by the State legislature, would generally be considered independent.

The ASC believes that, as a matter of sound public policy, State appraiser boards or commissions should adequately represent the broad public interest by providing the public with a meaningful opportunity to participate in the agency’s decision making process. A State agency should not be dominated in any way by any industry or profession and its board or commission should have one or more qualified public members. The ASC believes that domination of the State agency by representatives of affected industries would be inappropriate and inconsistent with Title XI. The ASC, however, recognizes that members of the appraisal industry should be significantly represented on the appraiser board or commission and believes that a board or commission may contain a majority of appraisers and still adequately represent the broad public interest. A State agency, board or commission, however, should reflect the interests of the State’s entire community of appraisers and the general public and not the interests of any professional appraiser organization.

An individual heading a State agency should not be actively engaged in the appraisal business or in any realty related activity during his or her term of office or employment and for a reasonable period thereafter.

The ASC strongly urges that State agency decisions, especially those relating to license or certificate issuance, revocation and disciplinary actions, not be made by State officials who also are responsible for realty related activities. State officials should accept and implement the actions of the appraiser board unless they are inconsistent with the public interest and trust. Additionally, such State agency decisions should be final administrative actions subject only to appropriate judicial review.

Board or commission members and any persons in policy or decision-making positions (collectively, “Board Members”), including persons who support Board Member activities, must perform their responsibilities consistent with the highest ethical standards of public service as implemented by pertinent State

statutes and regulations. In the absence of such statutes and regulations, the ASC expects Board Members to comply with the following general principles:

- Public service is a public trust, requiring Board Members to place loyalty to the Federal and State Constitutions, statutes, regulations, and these ethical principles above private gain;
- Board Members shall not engage in financial transactions using nonpublic information or allow the improper use of such information to further any private interest;
- Board Members shall not solicit or accept any gift or other item of monetary value (other than nominal value) from any person or entity seeking official action from, doing business with, or conducting activities regulated by the State agency, or whose interests may be substantially affected by the performance or nonperformance of the Board Member's duties;
- Board Members shall put forth an honest effort in the performance of their duties;
- Board Members shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the State agency;
- Board Members shall not use public office for private gain;
- Board Members shall act impartially and not give preferential treatment to any individual or private organization; and
- Board Members shall endeavor to avoid any actions creating the appearance of impropriety or that they may be violating the law or engaging in unethical or wrongful conduct or practices. Whether particular circumstances create such an appearance shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.<sup>2</sup> [Paragraph added 10/11/00, effective 1/1/01.]

[Following five paragraphs added 8/11/04, effective 1/1/05.]

Some State agencies contract with private entities (*i.e.*, third parties) to assist them in performing appraiser regulatory activities. Such arrangements can assist in managing costs and providing expertise that might not be available internally. At the same time, potentially reduced financial and operational control over a private entity's activities might pose certain risks. State agencies using private entities need to establish appropriate internal controls, procedures, and safeguards to assure that the entity performs its duties in an effective and consistent manner in compliance with the State's responsibilities under Title XI. The types of activities covered by this Statement include, but are not limited to<sup>3</sup>:

- Receiving, reviewing, and/or approving applications for initial certification or licensure;
- Receiving, reviewing, and/or approving applications for credential renewals;
- Analyzing the qualifications of appraiser applicants;
- Reviewing and/or approving qualifying and continuing education courses;
- Administering initial appraiser credentialing examinations;
- Receiving, reviewing, and/or approving temporary practice and reciprocity applications;
- Answering inquiries related to the State's appraiser licensing and certification program;
- Assisting in the investigation/disciplinary process regarding certified or licensed appraisers; and
- Preparing and/or submitting ASC National Registry data submissions and related fee payments.

A State agency should exercise due diligence to identify and select a private entity. As part of this process, the State agency should determine its needs and objectives and convey them to prospective private entities. In selecting a private entity, the State agency should perform sufficient analysis to determine

<sup>2</sup>These principles are based on 5 CFR § 2635.101(a) and (b), entitled *Basic obligation of public service*.

that the entity is competent and experienced in providing the activities that the State plans to outsource. This analysis should include an evaluation of an entity's ability, both operationally and financially, to meet the State agency's needs.

Any contract, agreement, or arrangement between a State agency and such a private entity needs to comply with State procurement requirements and be in writing. That document should:

- Clearly describe the duties, rights, and responsibilities of the parties, including specific quality standards and time frames for performing appraiser-regulatory services;
- Address how the parties will handle contingencies that could adversely affect the entity's performance;
- Ensure that adequate written procedural guidelines exist regarding how each appraiser regulatory activity will be performed;
- Ensure that the private entity provides adequate safeguards for records security, privacy of personal information, and confidentiality of documents;
- Provide that the private entity's appraiser-related operations, including any records relating to those operations (whether in physical or machine-readable form), at all times shall be available to the State; and
- Require that the records noted above are the property of the State agency and will be surrendered promptly to the State agency upon its request.

Finally, a State agency retains accountability for any private entity arrangement and for ensuring that its appraiser-related regulatory functions are in compliance with Title XI.

## Statement 2: Appraiser Classifications

Title XI established, and the ASC has recognized, two designations or titles for appraisers: “State licensed” and “State certified.” The Appraiser Qualifications Board of the Appraisal Foundation (“AQB”) has approved a third designation, “certified residential appraiser,” which the ASC also has recognized. Most of the States have adopted the certified residential appraiser classification. The ASC strongly urges States to use the federally recognized designations or titles, i.e., State certified general appraiser, State certified residential appraiser and State licensed appraiser. The use of other designations or titles increases the likelihood of confusion among users and could result in the employment of appraisers who do not have the required designation to perform the appraisal for which they are engaged. Use of other designations may complicate and confuse State temporary practice and reciprocity arrangements. States that choose to use other designations or titles should ensure that they can be easily distinguished from the Federal designations.

States also may experience problems if their statutes or regulations specify the types of real estate transactions for which State certified and licensed appraisers may conduct appraisals. In general, for federally regulated financial institutions, these determinations rest with the Federal financial institutions regulatory agencies as set forth under 12 U.S.C. 3341. These Agencies have issued regulations prescribing the types of transactions for which certified or licensed appraisers are required. State statutes and regulations should defer to the Agencies’ regulations in this area.

Some States have specifically included in their statutes or regulations restatements of the requirements set forth in the regulations issued by the Agencies relating to such matters as the value of transactions requiring certified or licensed appraisers, the specific skills of the appraisers and the complexity of appraisal assignments. These Federal requirements will probably be changed from time to time, thus creating conflicts with State requirements unless affected States act promptly to make conforming amendments to their statutes or regulations. The best way for States to avoid such problems is not to include any restatement of the requirements of the Agencies’ regulations in State statutes or regulations.

Any State or Federal agency or other user of appraisal services may impose additional appraiser qualification requirements if they consider such qualifications necessary to carry out their responsibilities under Federal statutes and regulations. Additional State imposed requirements, however, must not unduly restrict the ability of persons to become State certified or licensed appraisers. Moreover, those requirements must not reduce appraiser certification qualifications below those established by the AQB or unduly burden temporary practice. They also should not hamper the creation of State reciprocity agreements.

The ASC will continue to review each State’s education requirements to ensure, for licensing, that they are meaningful both as to the breadth of subject matter and length of required study, and, for certification, that they at a minimum conform to the requirements of the AQB.

### *A. State Certified Appraisers*

Title XI generally requires a State certified general appraiser to be a person who: (1) meets at least the minimum AQB criteria for “Certified General Real Property Appraiser”; and (2) passes a State administered examination issued or endorsed by the AQB. While Title XI does not specifically mention the State

Certified Residential Appraiser designation, it was adopted by the AQB, and the ASC has recognized it. A State certified residential appraiser is a person who: (1) meets at least the minimum AQB criteria for “Certified Residential Real Property Appraiser”; and (2) passes a State administered examination issued or endorsed by the AQB. The AQB occasionally has amended both sets of criteria since their adoption in 1990, with the most recent changes taking effect on January 1, 1998. Copies of the current certification criteria (as well as the AQB’s suggested criteria for Licensed Real Property Appraisers and Trainee Real Property Appraisers) can be obtained from the Appraisal Foundation by contacting the Foundation via Internet at [www.appraisalfoundation.org](http://www.appraisalfoundation.org), by telephone at 202-347-7727 or through U.S. mail at 1029 Vermont Avenue, N.W., Suite 700; Washington, D.C. 20005-3517.

#### *B. State Licensed Appraiser*

Title XI does not specifically set the qualifications requirements for licensing appraisers. Nor does it establish State appraiser licensing as an entry level or trainee designation. States are free to establish meaningful qualifications 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 all States should require persons to pass a meaningful, State approved written test before receiving a license. Such a test may be one issued or endorsed by the AQB, but, in any event, a qualified source should independently review and validate the test.

The ASC acknowledges that the AQB’s recommended experience and education criteria for “Licensed Real Property Appraiser” are meaningful and encourages States to adopt them. The ASC, however, recognizes that other meaningful ways exist for the States to ensure that persons of demonstrated competency qualify for State licensing by using different combinations of education and experience requirements in conjunction with an appraiser testing program. States may consider one or more of the following approaches:

- Less than the AQB-suggested hours of experience, if such experience was obtained under the direct supervision of a State certified or licensed appraiser;
- State agency review of a minimum number of appraisal reports prepared by the applicant;
- A practical examination consisting, for example, of the satisfactory completion of one or more appraisal reports from case studies or an actual field appraisal;
- A higher level of required education, such as a degree in real estate appraisal or similar degree; and
- A program in which the State agency grants a “trainee” license under the AQB’s suggested Trainee Real Estate Appraiser classification criteria or other reasonable method designed to enable an individual, who has the required education and has passed an appropriate examination, to obtain the experience [and training] necessary to demonstrate his or her competence within a limited period of time.

No matter the approach, the ASC believes that the time allowed to achieve the necessary hours of experience should not be limited to a set period.

The ASC believes that it is important for States to provide for appraisers’ continuing education as part of their licensing requirement. In that regard, the AQB’s continuing education recommendation for a Licensed Real Property Appraiser is reasonable.

During the initial period of implementing Title XI, the ASC accepted the concept of transitional licensing to allow practicing appraisers to continue in the profession although they did not meet all licensing qualifications. Transitional licensing enabled persons to become licensed when they passed the appropriate test but lacked either the educational or the experience requirements adopted by the State. States generally have required: (1) transitionally-licensed appraisers to satisfy the missing requirements within no more than two years after being tested and transitionally licensed by the State; and (2) each transitional license to indicate clearly its transitional nature, period of validity and a non-extendable termination date.<sup>3</sup>

The ASC believes that transitional licensing, as it has existed, is no longer necessary because practicing appraisers have had ample time and opportunity to meet the States' requirements for experience and education. Therefore, the ASC believes that there is no longer a need for States to award transitional licenses or to extend or renew previously issued transitional licenses.

However, as set out above, the ASC recognizes that there is a need for programs to facilitate the entry of individuals into the profession and is encouraging States to create meaningful mechanisms to help ensure the entry of competent individuals into the appraisal profession.

### *C. Trainee Real Property Appraiser*

On August 3, 1993, the AQB adopted qualification criteria for a new Trainee Real Property Appraiser classification. The ASC endorses this classification and encourages the minority of States that have not yet adopted the criteria to do so.

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<sup>3</sup>Title XI requires that the States establish certification criteria that, at a minimum, are consistent with the AQB's certification qualifications. These qualifications require persons to complete all education requirements before they can take a certification examination. Transitional or provisional certification is not consistent with the AQB's requirements.

### Statement 3: Appraisal Standards

Real estate appraisals generally must be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the ASB, i.e., USPAP. Each State, by statute or by regulation, has incorporated USPAP into State law. State agencies should take steps to ensure that State statutes or regulations automatically incorporate the latest version of USPAP, including related ASB Statements and Comments. In applying USPAP, State agencies should consider ASB Advisory Opinions and other written guidance on the meaning and application of USPAP, such as the ASB's State Advisory Bulletins, and, in general, should defer to the ASB, and, where appropriate, the Agencies, in those matters.

Some States have incorporated dated or limited versions of USPAP into their statutes or regulations. This can cause confusion and conflict for certified and licensed appraisers, who must comply with professional standards adopted by the ASB that are different than those adopted by their State. State agencies should apply and enforce identical provisions of USPAP. Therefore, the ASC urges all States to incorporate USPAP as the minimum appraisal standard by general reference into their laws or regulations. If State law prohibits a State agency from incorporating USPAP by general reference, the agency must take all necessary steps to ensure that the most current USPAP version is incorporated by specific reference by the date that version becomes effective.

Any State or Federal agency or other user of appraisal services may impose additional appraisal standards if they consider such standards necessary to carry out their responsibilities. Additional State imposed standards, however, must be consistent with USPAP and must not unduly restrict the ability of persons to become State certified or licensed appraisers. Moreover, those additional standards must not reduce the level of appraisal standards or practices below those established by the AQB or unduly burden temporary practice. They also should not hamper the creation of State reciprocity agreements.



#### **Statement 4: Written Appraisal Reports**

Title XI specifically mandates that all appraisals performed in connection with federally related transactions be in written form. 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. This requirement has been incorporated into other Federal statutes and regulations, in particular, the Agencies' regulations.

**Statement 5: Temporary Practice** [Published at 62 F.R. 19755 (April 23, 1997)]

Title XI requires a State 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 appraiser regulatory agency in the State of temporary practice. Thus, a certified or licensed appraiser from State A, who has an assignment concerning a federally related transaction in State B, has a statutory right to enter State B, register with the State agency in State B and perform the assignment. Title XI does not require State B to offer temporary practice to persons who are not certified or licensed appraisers, including appraiser assistants not under the direct supervision of an appraiser certified or licensed in State A. An out-of-State certified or licensed appraiser should register for temporary practice before beginning to perform an appraisal assignment in connection with a federally related transaction.

The ASC believes that "temporary" is best measured by one or more specific appraisal assignments. For temporary practice purposes, the ASC regards the term "assignment" as meaning one or more real estate appraisals and written appraisal reports which are covered by a contract to provide an appraisal.

Title XI also states that a State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the ASC, for temporary practice. The ASC considers the following fees, acts and practices of the State of temporary practice to be "excessive fees" or "burdensome requirements":

- Prohibiting temporary practice;
- Requiring temporary practitioners to obtain a permanent certification or license in the State of temporary practice;
- Taking more than five business days (after receipt of a complete temporary practice registration request) to issue a temporary practice permit (if issuance is required under State law) or to provide effective notice to the out-of-State appraiser regarding the status of his or her temporary practice request;
- Requiring out-of-State appraisers requesting temporary practice to satisfy the host State's appraiser qualification requirements for certification which exceed the minimum required criteria for certification adopted by the Appraiser Qualifications Board ("AQB");
- Limiting the valid time period of a temporary practice permit to less than six months after its issuance date or not providing a temporary practitioner with an effortless method of obtaining an extension of the time period;
- Limiting out-of-State certified appraisers to a single temporary practice permit per calendar year;
- Requiring temporary practitioners to affiliate with an in-State certified or licensed appraiser;
- Failing to take regulatory responsibility for a visiting appraiser's unethical, incompetent or fraudulent practices performed while within the State;
- After taking disciplinary action against a visiting appraiser, failing to forward copies of available evidence and final disciplinary orders promptly to the appraiser's home State agency; and
- Charging a temporary practice fee exceeding \$150.

In addition, the ASC will consider the following fees, acts and practices of the certified or licensed appraiser's home State to be excessive or burdensome:

- Delaying the issuance of a written "letter of good standing" or similar document for more than five business days after the home State agency's receipt of the related request; and
- Failing to take appropriate disciplinary action when one of its certified or licensed appraisers is disci-

plined by another State agency for unethical, incompetent or fraudulent practices under a temporary practice permit.

This listing is not exclusive. The ASC may find other excessive fees or burdensome practices while performing its State agency monitoring functions.

An out-of-State certified or licensed appraiser must comply with the host State's real estate appraisal statutes and regulations. Each appraiser who receives temporary practice registration is subject to the State's full regulatory jurisdiction and is governed by the State's statutes and regulations respecting appraiser certification or licensing. However, the out-of-State appraiser should be treated like any other appraiser within the State who wishes to perform an appraisal in a federally related transaction.

A State agency may establish by statute or regulation a policy that places reasonable limits on the number of times an out-of-State certified or licensed appraiser may exercise his or her temporary practice rights in a given year. If such an overall policy is not established, a State agency may choose not to honor an out-of-State certified or licensed appraiser's temporary practice rights if it has made a determination that the appraiser is abusing his or her temporary practice rights and is regularly engaging in real estate appraisal within the State.

Finally, some State agencies have sought to require that an appraiser register for temporary practice if the appraiser is certified or licensed in another State, performs a technical review of an appraisal in that other State and changes, or is authorized to change, a value in the appraisal. The ASC, however, has concluded that for federally related transactions the review appraiser need not register for temporary practice or otherwise be subjected to the regulatory jurisdiction of the State agency in which the appraisal was performed, so long as the review appraiser does not perform the technical review in the State within which the property is located.

**Statement 6: Reciprocity** [Correction notice published at 62 F.R. 23777 (May 1, 1997).]

Section 1122(b) of Title XI, 12 U.S.C. 3347(b), states that the ASC shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States. Under reciprocity agreements, an appraiser who is certified or licensed in State A and is also reciprocally certified or licensed in State B must comply with both States' appraiser laws, including those requiring the payment of certification, licensing and National Registry fees and continuing education. Indeed, the appraiser for all intents and purposes is treated as if he or she were separately certified or licensed in each of the States.

Each State should work expeditiously and conscientiously with other States with a view toward satisfying the purposes of § 1122(b). The ASC monitors each State's progress towards this goal and encourages States to work out issues and difficulties.

Specifically, the ASC encourages States to enter into reciprocity agreements that, at a minimum, contain the following features:

- Accomplish reciprocity with at least all contiguous States. For States not sharing geographically contiguous borders with any other State, such as Alaska and Puerto Rico, those States should enter into reciprocity agreements with States that certify or license appraisers who perform a significant number of appraisals in the non-contiguous States;
- Readily accept other States' certifications and licenses without reexamining applicants' underlying education and experience, provided that the other State: (1) has appraiser qualification criteria that meet or exceed the minimum standards for certification and licensure as adopted by the AQB; and (2) uses appraiser certification or licensing examinations that are AQB endorsed;
- Eliminate retesting, provided that the applicant has passed the appropriate AQB-endorsed appraiser certification and licensing examinations in the appraiser's home State;
- Recognize and accept successfully completed continuing education courses taken to qualify for license or certification renewal in the appraiser's home State; and
- Establish reciprocal licensing or certification fees identical in amount to the corresponding fees for in-State appraisers.

## **Statement 7: Prohibition Against Discrimination**

State agencies should be aware that Title XI and the Agencies' regulations prohibit federally regulated financial institutions from excluding appraisers from consideration for an assignment solely by virtue of their membership, or lack of membership, in any appraisal organization. Federally regulated financial institutions should review the qualifications of appraisers to ensure that they are qualified for the assignment for which they are being considered. It is unacceptable to assume that an appraiser is qualified solely due to membership in, or designation from, an appraisal organization, or the lack thereof. The Agencies have determined that financial institutions' appraisal policies should not favor appraisers from one or more organizations or exclude individuals based on their lack of such membership. If a State agency learns that a certified or licensed appraiser allegedly has been a victim of such discrimination, the State agency should inform the Agency which has regulatory authority over the involved financial institution.

The ASC has determined that such discrimination also is inappropriate in the establishment and administration of a State's certification and licensing system. The ASC urges States to adopt legislation, regulations or other procedures to prohibit such discriminatory practices.

In addition, State agencies should avoid discriminatory practices regarding appraiser educational course providers. Some State agencies inappropriately: (1) have charged a course review fee to private course providers while not charging such a fee to certain professional appraiser organizations; (2) have delayed approval of private school appraisal courses while rapidly approving those of professional appraiser organizations; and (3) have forced non-affiliated proprietary schools to maintain and use fixed school room locations, while certain professional appraisal organizations have been allowed to teach courses at non-fixed commercial sites, such as hotels, motels and office locations. State agencies should review their internal procedures and take steps to ensure that all educational providers are afforded equal treatment in all respects, including course review fees, timeliness of review and course location requirements.

## Statement 8: National Registry of State Certified and Licensed Appraisers

### A. *General Roster and Registry Fee Requirements*

Title XI requires the States to transmit to the ASC no less than annually: (1) a roster listing individuals who have received a State certification or license to perform appraisals and (2) a \$25 Registry fee from individuals who have received certification or licensing. Fee and roster requirements apply to all individuals who receive State certifications or licenses originally or by reciprocity, whether or not the individuals in fact are performing, or plan to perform, appraisals in federally related transactions. If an appraiser is certified or licensed in more than one State, the appraiser is required to be on each State's roster of certified or licensed appraisers and a Registry fee is due from each State in which the appraiser is certified or licensed.

Only appraisers on the National Registry are eligible to perform appraisals in connection with federally related transactions. Some States may give State certified or licensed appraisers an option of not paying Registry fees. If a State certified or licensed appraiser chooses not to pay the fee, then the credentialing State agency must ensure that any potential user of that appraiser's services is aware that the appraiser's certificate or license is limited to performing appraisals in connection with non-federally related transactions. The State agency must place a conspicuous notice directly on the face of any evidence of the appraiser's authority to appraise stating, "Not Eligible To Appraise Federally Related Transactions."

### B. *Description of National Registry*

The ASC has provided the States with detailed specifications regarding the data elements that comprise the Registry and related reporting procedures. States must use systems for data input and maintenance that recognize specifications of the ASC system to ensure system compatibility.

To assist the States in recording and submitting data efficiently and cost effectively, the ASC has developed a personal computer software package. It is contained on diskettes and is provided at no charge. The ASC creates a National Registry Number for each appraiser and protects each appraiser's privacy rights. This unique identification number is provided to appropriate State and Federal regulatory agencies to simplify multi-State queries regarding specific appraisers.

### C. *Registry Fee Policies*

Each State must remit to the ASC a National Registry fee on an annual basis for each State certified or State licensed appraiser listed on the National Registry. The annual fee for each certified or licensed appraiser is \$25. Fees will not be prorated or refunds granted for partial year registrations. If a State has not transmitted an appraiser's annual fee to the ASC, that individual is not recorded in the Registry and is not eligible to perform appraisals in connection with federally related transactions. If a State issues multiple-year certifications and licenses and collects multiple-year fees, the State may choose to remit to the ASC the total amount of the multiple year National Registry fees. The ASC can only record individuals on the National Registry for the number of years paid.<sup>4</sup> If an appraiser, for any reason, becomes uncertified or unlicensed, the appraiser is entitled to a refund consisting of any remaining full-year portions of the appraiser's multiple year fees. When the ASC receives proper documentation of this loss in status from

<sup>4</sup> The Comptroller General of the United States, in Decision B-279866.2 (November 3, 1998), prohibited the ASC from identifying appraisers on the National Registry as eligible to perform appraisals in connection with federally related transactions for years for which a State has collected fees but has not transmitted them to the ASC.

a State, the ASC will transmit those fees promptly to the State for refund to the appraiser. [Paragraph amended January 13, 1999.]

Upon receipt of a State's data submission, the ASC will process the data for inclusion in the National Registry. At the end of each month, the ASC will generate an invoice based on the data submissions received during the month from the State and will forward the invoice, with explanatory information, to the State. The State should review the invoice for accuracy immediately upon receipt and notify the ASC of any questions. The State must pay the invoice within 45 days from the invoice date. Interest will accrue on any unpaid amounts as specified by Federal law. Checks or electronic transfers should be made payable to the "Appraisal Subcommittee."

The ASC will consider an appraiser inactive if his or her certificate or license renewal fee is not received within 45 days of the invoice date. When in an inactive status, an appraiser is not authorized to perform appraisals in connection with federally related transactions, and the appraiser's listing in the National Registry will be removed. The ASC will change an appraiser from inactive to active status and reinstate his or her listing on the Registry only when it receives the renewal fee and appropriate renewal information from the State agency.

#### *D. Data Submission Policies*

The Registry's value and usefulness are largely dependent on the quality and frequency of State collected data. Accurate and frequent data submissions from all States are necessary to maintain an up-to-date Registry. States must submit appraiser data to the ASC no less frequently than monthly. If a State's data does not change during the month, the State agency must notify the ASC of that fact in writing. We encourage States to submit data as frequently as possible, up to daily. Each data submission must include the State's complete Registry-related appraiser database. This complete submission will be compared against existing Registry data to update appraiser information and to calculate Registry fees for generating invoices.

#### *E. Public Availability of Registry Data*

The releasable portions of National Registry information can be obtained via the Internet at the ASC Web site ([www.asc.gov](http://www.asc.gov)) or through the National Technical Information Service ("NTIS"). Certain personal information about an individual appraiser is protected by the Privacy Act, 5 U.S.C. 552a, and the ASC does not make it available through either source.

The ASC Web site provides free access to the public portion of the Registry. The entire public portion 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 and Federal regulatory agencies.

Alternatively, public Registry information is available through NTIS. Subscriptions for database updates, as well as record sorts by factors such as State and zip code, may be obtained through NTIS. When requesting Registry data, refer to The Real Estate Appraisers Registry, the NTIS catalogue name. For additional information about the Registry database, please write:

U. S. Department of Commerce  
National Technical Information Service  
Room 301-F  
5285 Port Royal Road  
Springfield, VA 22161  
Telephone: (703) 487-4812  
Fax: (703) 321-8547

To ensure the accuracy and integrity of the National Registry, State agencies should designate a high ranking State agency administrative officer, such as an executive director, who will serve as the State agency's Registry contact official. The State agency should advise the ASC in writing regarding the selected designee and should ensure that the authorization is kept current. The ASC will accept inquiries and information relating to National Registry data from this authorized individual only.



## Statement 9: Information Sharing

The ASC believes that the routine exchange of certain information among lenders, State agencies and the ASC is essential to meeting the goals of Title XI.

### A. *National Registry Data*

It is critical for State agencies to report expeditiously to the ASC any disciplinary action taken against an appraiser. At a minimum, this information must be submitted with the State's monthly, or more frequent, Registry data submission. For the most serious disciplinary actions, i.e., suspensions and revocations, we strongly encourage the State to notify us immediately, and we will update the Registry database. States with Internet e-mail accounts will receive automated notification of all suspensions and revocations.

### B. *Information Pertaining to Appraiser Conduct and Practices*

#### 1. State Agency/Lender Communications

Title XI requires "any federally recognized entity," e.g., a federally regulated institution, to report any action of a State certified or licensed appraiser that is contrary to the purposes of Title XI to the appropriate State agency for disposition. In turn, the State agency must provide the ASC with a report regarding the disposition of such a matter.

The ASC believes that full implementation of this Title XI requirement is vital to the integrity of the system of State appraiser regulation. By promptly reporting instances of incompetent or unethical behavior of appraisers to State agencies, State agencies are able to investigate appraiser actions and ensure that a resulting suspension or revocation of an appraiser's certificate or license is communicated expeditiously to the ASC. At that point, the ASC removes the appraiser's name and related information from the National Registry, thereby preventing the appraiser from legally performing appraisals in connection with federally related transactions or for other transactions requiring the use of State certified or licensed appraisers. As part of its State agency monitoring process, the ASC evaluates the effectiveness with which each State agency follows up complaints from financial institutions and other persons who report instances of appraiser incompetence or unethical behavior.

#### 2. Communications Among State Agencies

Title XI contemplates the reasonably free movement of certified and licensed appraisers across State lines. This freedom of movement assumes, however, that certified and licensed appraisers are, in all cases, held accountable and responsible for their actions while performing appraisal activities. To ensure this accountability, State agencies need to establish routine ways to communicate with each other regarding matters of mutual interest, including the activities and status of persons who are certified or licensed in multiple States. The ASC Web site provides one such source of information and communication.

### C. *ASC Information "Clearing House" Operations*

To facilitate the development of reciprocity among the States and the creation of State appraiser trainee/apprentice/intern programs, the ASC is developing a database of information that will be available to State agencies outlining each State's reciprocity requirements and interstate agreements as well as the features of existing appraiser trainee/apprentice/intern programs. The ASC is urging: (1) each State

to maintain with the ASC a listing of all reciprocity agreements with other States (together with copies of such agreements), and (2) each State with a trainee/apprentice/intern program to maintain with the ASC a current summary of the program's requirements and features. Information regarding reciprocity, trainee programs, and other issues, such as Temporary Practice provisions, is maintained on the ASC Web site.

## Statement 10: Enforcement

### A. *The Scope of State Agency Enforcement Programs*

In the ASC's view, Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals in connection with all real estate appraisals involving real estate related financial transactions, and not just federally related transactions. The Federal agencies and all employers of appraisers must rely on the States to effectively regulate, supervise and discipline their certified and licensed appraisers – in other words, to assure their professional competence. Accordingly, a State agency with knowledge of inappropriate behavior by a certified or licensed appraiser committed in connection with an appraisal of a non-federally related transaction should take appropriate action to investigate that behavior and to discipline the appraiser.

As noted, other Federal statutes and regulations require the use of State certified or licensed appraisers in certain real estate transactions. A few State statutes, however, do not require the use of certified and licensed appraisers in those circumstances. The ASC recommends that State statutes or regulations authorize the State agency or another appropriate State authority to take action, as necessary, against an uncertified or unlicensed person who performs an appraisal for which a State certified or licensed appraiser is required under Federal statute or regulation. The ASC believes that, to preserve the integrity of the system for regulating the appraisal process, States should have sufficient legal tools, e.g., a State law prohibiting a person from misrepresenting his or her professional status and authority, to take such actions.

### B. *Audit of Experience and Education Submissions*

While the ASC has no preference for any specific methodology, State agencies, at a minimum, should have a reliable means of validating both education and experience credit claimed for certification or licensing. The ASC believes the lack of routine verification procedures is both an invitation to potential fraud and a threat to the integrity of a State's appraiser regulatory program. **See Section F below for requirements applicable to the use of appraiser affidavits or other affirmations of compliance.** (The preceding sentence in bold print is new language, effective January 1, 2005.)

### C. *Exemptions*

Title XI and other Federal statutes and regulations specifically require the use of only State certified or licensed appraisers in connection with the appraisal of certain real estate-related financial transactions. A State may not exempt any individual or group of individuals from meeting the State's certification or licensing requirements if the individual or group member performs an appraisal where Federal statutes and regulations require the use of a certified or licensed appraiser. For example, an individual who has been exempted by the State from its appraiser certification or licensing requirements because he or she is an officer, director, employee or agent of a federally regulated bank, thrift or credit union would not be permitted to perform an appraisal in connection with a federally related transaction. States with exemption provisions should take steps to ensure that the provisions are not being used or interpreted to avoid the use of certified or licensed appraisers in transactions governed by Federal law.

### D. *Supervising Uncertified and Unlicensed Appraiser Assistants*

Title XI provides that an individual who is not a State certified or licensed appraiser may assist in

the preparation of an appraisal if the assistant is under the direct supervision of a licensed or certified appraiser and the final appraisal is approved and signed by that appraiser. The ASC believes that this provision should not be used to legitimize situations where one or more uncertified or unlicensed persons are not actively and directly supervised by a certified or licensed appraiser during the preparation of the significant aspects of the appraisal process, and the certified or licensed appraiser does not substantively review the appraisal in accordance with USPAP's requirements. The ASC believes that any cursory review should not qualify as direct supervision and that such activities would violate the intent and purposes of Title XI. The ASC, therefore, urges State agencies to ensure that their appraiser regulatory programs can identify situations where direct supervision is not present and to take appropriate steps to remedy them.

*E. Effective, Consistent, Documented, and Timely Enforcement Process [Section added 10/11/00, effective 1/1/01.]*

Each State agency must ensure that its entire system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner. For the purposes of this paragraph, "well-documented" means that relevant documentation pertaining to a matter exists, and it will enable ASC investigators to understand the facts and determinations in the matter and the reasons for those determinations. Absent special documented facts or considerations, substantially similar cases must result in similar dispositions. State agencies must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint. Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal, appraisal methodology, and USPAP.

Dismissal of an alleged USPAP violation due to an "absence of harm to the public" is inconsistent with Title XI's purpose. That purpose "is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed . . . in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision." Financial loss or the lack thereof is not an element in determining whether there is a USPAP violation; the extent of such loss, however, should be a factor in determining the appropriate level of discipline. It is critical that State agencies investigate allegations of USPAP violations, and, if allegations are proven, take appropriate disciplinary or remedial action.

State agencies need to process complaints of appraiser misconduct or wrongdoing on a timely basis. Absent special documented circumstances, final State agency administrative decisions regarding complaints should occur within one year of the complaint filing date.

*F. Use of Affidavits or Other Affirmations Regarding Appraiser Experience and Education [Section added 8/11/04, effective January 1, 2005.]*

The following discussion provides guidance on the acceptance of affidavits and other affirmations by States in recognizing experience and education for initial certification, credential upgrade to certification, and certification renewal.

- 1. Background** – Most States require applicants/appraisers to submit documentation supporting experience and education claimed to qualify for or renew a credential. These States review the documentation before determining whether to issue or renew the credential. In the ASC's review of State appraiser

regulatory programs, the ASC has found that some States rely on affidavits (*i.e.*, sworn statements or affirmations) from applicants/appraisers stating that they have obtained the experience and/or education required under State and/or Federal law to obtain their certificates or licenses initially (*i.e.*, qualifying education or experience) or to renew their credentials (*i.e.*, continuing education). In States accepting affidavits, the applicant/appraiser usually does not submit documentation to support the claimed experience or education. The States accept the applicant/appraiser's affirmation that he or she has obtained the necessary experience or education. It is critical that States relying on such affidavits have effective procedures to verify that the appraiser has successfully met Federal and State law requirements.

Certified appraisers who obtain their credentials via affidavit, but have not completed the claimed education courses or experience, have not met Title XI's minimum requirements and are not legally eligible to perform appraisals in connection with federally related transactions and appraisals in connection with real estate related financial transactions involving Fannie Mae, Freddie Mac, and FHA.

2. **Experience** – States cannot accept experience-related affidavits from applicants for certification (*i.e.*, Certified Residential or Certified General classifications). If a State accepts experience-related affidavits from applicants for licensure (*i.e.*, any non-certified classification, such as Licensed or Trainee), upon the appraiser's application to upgrade to a certified classification, the State must require experience documentation to support the appraiser's qualification for the certified classification, not just the incremental amount of experience required to move from the non-certified to the Certified classification. For example, assume that a State accepts an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the Licensed classification. Subsequently, this appraiser applies to upgrade to the Certified Residential classification. The State must require documentation to support the full experience hours required for the Certified Residential classification, not just the difference in hours between the two classifications.
3. **Qualifying Education for Initial Certification** – States cannot accept education-related affidavits from applicants for initial certification without verifying that the applicant's claimed education courses are acceptable under AQB Criteria, and that the applicant has successfully completed the courses. States must ensure that applicants for certification meet AQB Criteria. Also, we recommend that States ensure that applicants for non-certified classifications meet the State's initial education requirements by reviewing each education course.
4. **Qualifying Education to Upgrade to Certified Classifications** – If a State accepts education-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require documentation to support the appraiser's educational qualification for the certified classification, not just the incremental amount of education required to move from the non-certified to the Certified classification. (*See* paragraph two above for an example of a similar upgrading situation.)
5. **Continuing Education** – States may accept education-related affidavits from certified appraisers for credential renewal. Each State accepting affidavits for certified appraiser credential renewals must establish a reliable means of validating the affidavits, *i.e.*, validation procedures.

- a) **Validation Procedures** – For the purposes of this Policy Statement, validation procedures need to achieve at least two goals. First, the procedures must include a prompt post-approval audit of an adequate number of affidavits to have an acceptable chance of identifying appraisers who fail to comply with Federal and State law. The sample must include a reasonable representation of the appraiser population being sampled. Second, the procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. It is necessary to achieve both goals to have reliable validation procedures.
- b) **Credential Renewal Intervals** – States renew appraiser credentials at varying intervals. Some States schedule credentials to expire on a single date, *e.g.*, December 31 each year, every other year, or every third year. Other States schedule expirations for month end or quarter end. Still other States establish expirations based on the dates the credentials are issued and can have expirations almost every day of the year. Each approach presents its own challenges to the State.

For States that have a single expiration date for a portion or all of their appraisers, the appraiser population is easy to determine. This, in turn, makes the sample size easy to determine. States that have multiple expiration dates might have more difficulty in determining the appraiser population and the appropriate sample size and techniques. Nonetheless, it is incumbent on these States to ensure that they implement validation procedures for certified appraisers that conform to this policy statement.

- c) **Auditing and Enforcement Requirements** – The State must audit the continuing education-related affidavit for each certified appraiser selected in the sampling procedure. The following minimum standards apply to these audits:
- Each affidavit audit must be completed within 60 days from the date the renewed credential is issued;
  - The State must determine that the education courses claimed conform to AQB Criteria, and that the appraiser successfully completed each course;
  - When a State determines that a certified appraiser does not meet the AQB's minimum continuing education criteria, the State must take appropriate action in the most expeditious manner to suspend the appraiser's eligibility to perform appraisals in Federally related transactions. Also, the State must notify the ASC expeditiously, by email or fax, of that fact so that the appraiser's record on the National Registry can be updated appropriately; and
  - If a State determines that more than ten percent of the audited appraisers failed to meet the AQB Criteria, the State must take remedial action to address the apparent weakness of its affidavit process. Possible actions could include: auditing the affidavit submissions of every certified appraiser in the renewing population; abandoning the affidavit process; and/or prominently publishing the names of appraisers failing the audit to improve deterrence. The ASC will determine on a case-by-case basis whether remedial actions were effective and acceptable.

- d) **List of Education Courses** – To promote accountability and deter fraud, we encourage States that accept continuing education-related affidavits for certified appraisers to require that the appraiser also submit a listing of courses to support the affidavit.
- e) **Documentation** – To ensure that the ASC can determine State compliance with these standards, a State needs to maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

September 22, 1997

## Relevant Statutes

The following is a compilation of Title XI of FIRREA, as amended, and related legislation applicable to the ASC.

### **TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS** [12 U.S.C. 3331-3351]

#### **SEC. 1101. Purpose** [12 U.S.C. 3331]

The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

#### **SEC. 1102. Establishment of Appraisal Subcommittee of the Federal Financial Institutions Examination Council** [12 U.S.C. 3310]

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end thereof the following new section:

##### **SEC. 1011. Establishment of Appraisal Subcommittee**

“There shall be within the Council a subcommittee to be known as the ‘Appraisal Subcommittee’, which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.”

#### **SEC. 1103. Functions of Appraisal Subcommittee** [12 U.S.C. 3332]

(a) *In general.* The Appraisal Subcommittee shall —

(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;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies and the Resolution Trust Corporation with respect to —

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

(4) 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 Appraisal Subcommittee has been carried out during the preceding year.

(b) *Monitoring and reviewing Foundation.* The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

#### **SEC. 1104. Chairperson of Appraisal Subcommittee; term of Chairperson; meetings** [12 U.S.C. 3333]

(a) *Chairperson.* The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) *Meetings; quorum; voting.* The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

#### **SEC. 1105. Officers and staff** [12 U.S.C. 3334]

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this title consistent with the appointment and compensation practices of the Council.

#### **SEC. 1106. Powers of the Appraisal Subcommittee** [12 U.S.C. 3335]

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

#### **SEC. 1107. Procedures for establishing appraisal standards and requiring the use of certified and licensed appraisers** [12 U.S.C. 3336]

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with



procedures set forth in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

**SEC. 1108. Startup funding** [12 U.S.C. 3337]

(a) *In general.* For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of \$5,000,000 on the date of the enactment of this Act. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) *Additional funds.* Except as provided in section 1122(b) of this title, funds in addition to the funds provided under subsection (a) may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

(c) *Repayment of Treasury loan.* Not later than September 30, 1998, the Appraisal Subcommittee shall repay to the Secretary of the Treasury the unpaid portion of the \$5,000,000 paid to the Appraisal Subcommittee pursuant to this section.

**SEC. 1109. Roster of State certified or licensed appraisers; authority to collect and transmit fees**  
[12 U.S.C. 3338]

(a) *In general.* Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall —

(1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and

(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than \$25, such fees to be transmitted by the State agencies to the Council on an annual basis. Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of \$50 per annum, as necessary to carry out its functions under this title.

(b) *Use of amounts appropriated or collected.* Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used —

(1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;

(2) to support its activities under this title;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title; and

(4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards.

**SEC. 1110. Functions of the Federal financial institutions regulatory agencies relating to appraisal standards**  
[12 U.S.C. 3339]

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum — (1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and (2) that such appraisals shall be written appraisals. Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

**SEC. 1111. Time for proposal and adoption of standards**  
[12 U.S.C. 3340]

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act.

**SEC. 1112. Functions of the Federal financial institutions regulatory agencies relating to appraiser qualifications**  
[12 U.S.C. 3341]

(a) *In general.* Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 1113 and 1114 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

(b) *Threshold level.* Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.

(c) *GAO study of appraisals in connection with real estate related financial transactions below the threshold level.*—

(1) Study required. At the end of the 18-month period, and the end of the 36-month period, beginning on the date of the enactment of this subsection [October 29, 1992], the Comptroller General of the United States shall conduct a study on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account —

(A) the cost to any financial institution involved in any such transaction;

(B) the possibility of losses to the Bank Insurance Fund, the Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund;

(C) the cost to any customer involved in any such transaction; and

(D) the effect on low-income housing.

(2) Reports to Congress and the appropriate Federal financial institutions regulatory agencies. Upon completing each of the studies required under paragraph (1), the Comptroller General shall submit a report on the Comptroller General's findings and conclusions with respect to such study to the Federal financial institutions regulatory agencies, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

**SEC. 1113. Transactions requiring the services of a State certified appraiser** [12 U.S.C. 3342]

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy

importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that —

(1) a State certified appraiser shall be required for all federally related transactions having a value of \$1,000,000 or more; and

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

**SEC. 1114. Transactions requiring the services of a State licensed appraiser** [12 U.S.C. 3343]

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

**SEC. 1115. Time for proposal and adoption of rules** [12 U.S.C. 3344]

As appropriate, rules issued under sections 1113 and 1114 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act.

**SEC. 1116. Certification and licensing requirements** [12 U.S.C. 3345]

(a) *In general.* For purposes of this title, the term “State certified real estate appraiser” means 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 Qualification Board of the Appraisal Foundation.

(b) *Restriction.* No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualifications Board of the Appraisal Foundation.

(c) *Definition.* As used in this section, the term “State licensed appraiser” means an individual who has satisfied the requirements for State licensing in a State or territory.

(d) *Additional qualification criteria.* Nothing in this title shall be construed to prevent any Federal agency or instru-

mentality under this title from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

(e) *Authority of the Appraisal Subcommittee.* The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus [sic] standard. Recommendations of the Subcommittee shall be nonbinding on the States.

**SEC. 1117. Establishment of State appraiser certifying and licensing agencies [12 U.S.C. 3346]**

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

**SEC. 1118. Monitoring of State appraiser certifying and licensing agencies [12 U.S.C. 3347]**

(a) *In general.* The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.

(b) *Disapproval by Appraisal Subcommittee.*—The Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that —

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this title; 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 this title.

(c) *Rejection of State certifications and licenses.*

(1) *Opportunity to be heard or correct conditions.* Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) *Adoption of procedures.* The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) *Judicial review.* A decision of the subcommittee under this section shall be subject to judicial review.

**SEC. 1119. Recognition of State certified and licensed appraisers for purposes of this title [12 U.S.C. 3348]**

(a) *Effective date for use of certified or licensed appraisers only.*—

(1) *In general.* 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.

(2) *Extension of effective date.* Subject to the approval of the Council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes 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.

(b) *Temporary waiver of appraiser certification or licensing requirements for State having scarcity of qualified appraisers.* Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with 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. The waiver terminates when the Appraisal Subcommittee determines that such significant delays have been eliminated.

(c) *Reports to State certifying and licensing agencies.* The

Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

**SEC. 1120. Violations in obtaining and performing appraisals in federally related transactions**

[12 U.S.C. 3349]

(a) *Violations.* Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(b), it shall be a violation of this section —

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 1121(5) to which such association or corporation is a party.

(b) *Penalties.* A financial institution that violates subsection (a)(1) shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(c) *Proceeding.* A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

**SEC. 1121. Definitions**

[12 U.S.C. 3350]

For purposes of this title:

(1) *State appraiser certifying and licensing agency.* The term “State appraiser certifying and licensing agency” means a State agency established in compliance with this title.

(2) *Appraisal Subcommittee; subcommittee.* The terms “Appraisal Subcommittee” and “subcommittee” mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) *Council.* The term “Council” means the Federal Financial Institutions Examinations Council.

(4) *Federally related transaction.* The term “federally related transaction” means any real estate-related financial transaction which —

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) *Real estate related financial transaction.* The term “real estate-related financial transaction” means any transaction involving —

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) *Federal financial institutions regulatory agencies.* The term “Federal financial institutions regulatory agencies” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporations, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) *Financial institution.* The term “financial institution” means 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.

(8) *Chairperson.* The term “Chairperson” means the Chairperson of the Appraisal Subcommittee selected by the council.

(9) *Foundation.*—The terms “Appraisal Foundation” and “Foundation” means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under

the laws of Illinois.

(10) *Written appraisal.*—The term “written appraisal” means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

**SEC. 1122. Miscellaneous provisions [12 U.S.C. 3351]**

(a) *Temporary practice.*

(1) *In general.* A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

(A) the property to be appraised is part of a federally related transaction,

(B) the appraiser’s business is of a temporary nature, and

(C) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(2) *Fees for temporary practice.* A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

(b) *Reciprocity.* The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

(c) *Supplemental funding.* Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council’s functions under this title.

(d) *Prohibition against discrimination.* Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(e) *Other requirements.* A corporation, partnership, or other business entity may provide appraisal services in connec-

tion with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(f) *Studies.*

(1) *Study.* The Appraisal Subcommittee shall —

(A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) *Report.* The Appraisal Subcommittee shall —

(A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after the date of the enactment of this title, and

(B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after the date of the enactment of this title.

**SEC. 1123. Emergency exceptions for disaster areas [12 U.S.C. 3352]**

(a) *In general.* Each Federal financial institutions regulatory agency may, by regulation or order, make exceptions to this title, and to standards prescribed pursuant to this title, for transactions involving institutions for which the agency is the primary Federal regulator with respect to real property located within a disaster area if the agency —

(1) makes the exception not later than 30 months after the date on which the President determines, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that a major disaster exists in the area and

(2) determines that the exception —

(A) would facilitate recovery from the major disaster, and

(B) is consistent with safety and soundness.

(b) *3-year limit on exceptions.* Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

(c) *Publication required.* Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement that —

(1) describes any exception made under this section; and

(2) explains how the exception —

(A) would facilitate recovery from the major disaster, and

(B) is consistent with safety and soundness.

(d) *Disaster area defined.* For the purposes of this section, the term “disaster area” means an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists.

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989 SEC. 142. FHA OPERATIONS.**

(e) *Appraisal standards.* [12 U.S.C. 1708(e)]

(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum —

(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

(B) that each appraisal is a written statement used in connection with a real estate transaction that is independently an[d] impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.

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