

APPRAISAL SUBCOMMITTEE

Federal Financial Institutions Examination Council

ANNUAL
REPORT
1998

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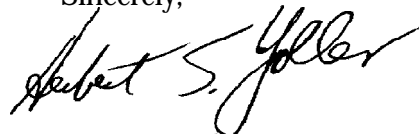
Letter of Transmittal

July 7, 1999

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 1998 Annual Report of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Herbert S. Yolles". The signature is written in a cursive style with a large, sweeping initial "H".

Herbert S. Yolles
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 a FFIEC subcommittee. The FFIEC was established pursuant to Title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 to create an interagency body empowered to prescribe uniform principles for the Federal examination of regulated financial institutions.

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

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

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

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Message from the Chairman

In 1998, the national program of appraisal regulation envisioned by Title XI marked its sixth year of full operation, with related Federal and State regulatory programs working to fulfill Title XI's purposes. Contributing to this progress were the actions taken by the ASC, the State agencies, the Foundation, including its Appraiser Qualifications Board ("AQB" or "Qualifications Board") and Appraisal Standards Board ("ASB" or "Standards Board"), and the Agencies and HUD.

The ASC's expenses for the fiscal year ("FY") ending September 30, 1998, were \$1,608,825. This amount included \$592,915 in grant payments to the Foundation. Since the ASC's inception in 1989 to June 1994 (when the ASC began operating on fees received from State certified and licensed appraisers), the ASC used \$4,976,118 of its one-time, \$5 million "start-up" appropriation. On March 27, 1998, the ASC repaid the final \$500,000 of the Treasury advance, well in advance of the September 30, 1998 repayment deadline mandated by Section 1108(c) of Title XI. The ASC's FY 1998 audited financial statements are presented in Appendix A. The ASC moved its offices to its current location in November 1998.

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 84,000 entries pertaining to more than 72,000 individual appraisers. During FY 1998, the ASC received Registry fees totaling \$2,519,187.

During 1998, the ASC continued its second cycle of on-site reviews of State agencies, with ASC staff visiting 17 States. The focus of this review cycle has been different than the first cycle. The first cycle focused on whether States had an appropriate statutory, regulatory and organizational framework to implement Title XI. The sec-

ond cycle has focused primarily on how the State is enforcing compliance with Title XI.

While the ASC continued to find most States in substantial compliance with the intent of Title XI, problem areas continued to be identified. Most of them involved inadequate enforcement and disciplinary activities. Other areas concerned Registry discrepancies between State and ASC records, State statutory and regulatory conflicts with Title XI, and restrictive temporary practice and reciprocity procedures. The ASC addressed these problem areas on a case-by-case basis within the framework of its State agency oversight program. The ASC's Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers continued to contribute to greater consistency in the implementation and interpretation of Title XI. These Policy Statements are presented in Appendix B. And, all States continued to have laws in place requiring applicants to meet at least the Qualifications Board-established minimum qualification criteria for certified appraisers and to pass a Qualifications Board-approved examination.

Six States, however, failed to update their State appraiser regulatory programs to conform to the AQB's higher minimum qualifications criteria for certified appraisers that became effective on January 1, 1998. The ASC worked with these States during 1998, and, by year-end, all but two States made appropriate changes to their programs, and significant progress towards that end was made in the remaining States. In addition, several States provided for the "carryover" of excess earned continuing education credits to the next credentialing period, contrary to the AQB Criteria. These inconsistencies also were cured during 1998.

The ASC continued its major 1996-1997 initiative to make the Registry more accurate,

accessible and easy to use. During 1998, the ASC fully implemented the Registry, with Internet access provided to State agencies, regulated financial institutions, other users of appraisal services, and the general public. The ASC worked closely with its Web site contractor, U.S. Web DC, and State agencies to ensure the system's smooth implementation, balancing the public's need for the best information and State agency systems and fiscal restraints.

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

In connection with the Registry project, the ASC requested and received from the Comptroller General of the United States formal decisions regarding its status as an "appropriated agency" and issues concerning the collection and payment of Registry fees by States on a multi-year basis. On September 11, 1998, the Comptroller General issued Decision No. B-279866, in which he concluded that the ASC "is an appropriated fund activity even though it has repaid the \$5 million 'seed money' received as start-up funding from the

Treasury." He also concluded that Registry fees received from the States, in effect, were an "appropriation." The second Decision, No. B-279866.2, was issued on November 3, 1998. That Decision stated that: (1) "[w]hether [S]tate agencies collect [R]egistry fees from appraisers for more than 1 year, and hold or transmit fees for other than the current year, is a matter of [S]tate law" ; and (2) the ASC "may accept [R]egistry fees covering more than 1 year and list the affected appraisers on its [R]egistry for the years covered by the fees. ASC may not list an appraiser on its [R]egistry for a year for which it did not receive a fee." At year-end, the ASC planned to amend ASC Policy Statement 8, National Registry of State Certified and Licensed Appraisers, to conform with the second Decision. The ASC also was working with affected States to assure its compliance with these Decisions.

Finally, the ASC revised its "Stateside Software" and made it available free of charge to all State agencies. This program provides State agencies with a "one-stop" Registry processing solution, from initially entering appraiser-related Registry data, editing that data, to sending properly formatted Registry data submissions to the ASC.

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

The ASC continued to monitor and review the activities of the Foundation and to fund the portions of its expenses that relate to Title XI-related activities of the Standards Board, the Qualifications Board and the membership activities of its

Board of Trustees. The ASC approved a calendar year 1998 grant of \$666,650 to the Foundation in support of the activities of its board of directors and the Standards and Qualifications Boards. During 1998, the ASC actually reimbursed the Foundation \$582,828 for work performed under the grant.

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

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Administration of the ASC

ASC meetings are held monthly. The ASC has a seven employee, full-time, professional staff in its administrative offices. The organization and responsibilities of the ASC's staff follow:

- *Executive Director*—Responsible for formulating, implementing, and evaluating policies, procedures, and programs for carrying out the day-to-day operations of the ASC. Responsible for the National Registry and for providing financial and facilities management, personnel and payroll, procurement and contracting, and government technical representative services to the ASC and staff. Responsible for managing the analysis of Federal and State appraisal requirements; formulation of guidelines; development of analytical projects needed to achieve the goals of Title XI; and for ASC field reviews of State appraiser regulatory programs to determine compliance with Title XI.
- *General Counsel*—Responsible for the ASC's professional legal work. Serves as legal advisor to the ASC, its Executive Director, and the ASC staff, and provides legal advice regarding statutes and other laws relating to the regulation of the appraisal industry and ASC operations.
- *Appraisal Policy Manager*—Responsible for managing the development, implementation, and maintenance of policies, procedures, and guidelines pertaining to monitoring the Agencies' policies; monitoring and reviewing the Appraisal Foundation; monitoring State appraisal regulatory programs; and reviewing State compliance with Title XI.
- *Information Management Specialist*—Responsible for the day-to-day operation of the National Registry and ASC automated systems.
- *Administrative Officer*—Responsible for providing and coordinating all administrative services.

Members of the ASC and their terms of service were:

- Chairman, Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, NCUA, July 1994 to present;
- Member, Diana L. Garmus, Director for Corporate Activities, OTS, September 1990 to present;
- Member, Virginia Gibbs, Senior Supervisory Financial Analyst, Division of Banking Supervision and Regulation, FRB, November 1997 to present;
- Member, Jesse G. Snyder, Assistant Director for Planning and Program Development, Division of Supervision, FDIC, December 1997 to present;
- Member, David D. Gibbons, Deputy Comptroller for Credit Risk, OCC, June 1997 to present; and
- Member, Mark W. Holman, Acting Branch Chief, Mortgage Underwriting Insurance Branch, HUD, April 1995 to present;

The Appraisal Subcommittee Staff were:

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

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Monitoring State Appraiser Regulatory Agencies

The ASC must monitor each State's appraiser licensing and certification regulatory program to ensure that it: (1) recognizes and enforces the standards, requirements, and procedures prescribed by Title XI; (2) has adequate authority to permit it to carry out its Title XI-related functions; and (3) makes decisions concerning appraisal standards, appraiser qualifications, and supervision of appraiser practices consistent with Title XI. The ASC, in general, satisfies these responsibilities by performing on-site field reviews of State agency programs and maintaining close communications with, among others, appraisers, State and Federal agencies, and users of appraisal services. In 1997, the ASC determined that each State appraiser regulatory program should be reviewed routinely at least once every three years. Additional reviews also would be scheduled on an as-needed basis. Accordingly, the ASC performed 14 on-site State reviews and 3 follow-up reviews during 1998.

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 or three days. The staff reports its findings and recommendations to the ASC, and the ASC issues a comment letter to the State agency. Further efforts to reconcile compliance issues occur, as necessary.

While most State agencies performed their Title XI-related activities in a responsible manner, some major problem areas remained.

- *Compliance*—The most egregious problem resulted from the States' failure to properly amend State statutes and/or regulations to implement changes in Federal requirements.

Despite the four-year implementation period, three States did not adopt the AQB's more stringent education and experience requirements for certified real estate appraisers by the January 1, 1998 effective date. Consequently, the ASC required those States to identify individuals issued a certificate after January 1, 1998, without demonstrating the increased hours of education and experience ineligible to perform appraisals for federally related transactions. Further, their names were not included on the National Registry.

- *Temporary Practice*—A few State statutes and/or regulations continued to limit the valid time period of temporary permits to less than six months after the issue date, often without an option to renew. Some States only allowed an individual to receive one permit per year. Each of these actions is considered a burdensome practice contrary to Title XI and ASC Policy Statement 5.
- *Enforcement*—Complaints of appraiser misconduct were not expeditiously resolved. In addition, disciplinary actions were not reported to the ASC and the National Registry under Title XI and ASC Policy Statement 9.
- *Operations*—Formal State agency decision-maker meetings were frequently canceled. Cancellations were often due to the lack of a quorum because of slow gubernatorial appointments to the decision-making body or a lack of interest or commitment by members of that body.

The ASC sent field review letters to each State agency, detailing each ASC concern. Appropriate follow-up actions, including informal discussions and written communications were taken throughout the year. In addition, three follow-up visits were conducted to more closely monitor the States'

progress in correcting deficiencies identified. The resulting changes continued to improve State appraiser regulatory programs.

Off-site Monitoring Program

The ASC temporarily suspended its off-site monitoring function. In past years, the ASC used an Annual Survey completed by the States to augment the ongoing field review process. The Annual Survey was intended to provide the ASC—with a synopsis of each State’s appraisal program activities over the last year and to update the ASC on State activities since the last on-site review.

In 1998, the ASC concluded the Annual Survey did not effectively achieve its objective. Much of the information collected was unable to be used to accurately track the activities of individual States and/or draw comparisons with other jurisdictions.

The basic problems with the Annual Survey program were the fact that:

1. Not all States responded to the survey;
2. Few States provided answers to all survey questions; and
3. Responses given reflected different periods during the previous year (*i.e.*, calendar and fiscal years).

As a result, Annual Survey information always indicated wide-ranging differences among State appraiser regulatory programs.

ASC staff is revising the Annual Survey. All survey questions are being reevaluated. In addition, States will be asked to complete a computerized version of the survey that will better ensure all questions are answered and the statistical information is reasonable and useful.

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Activities of the Federal Financial Institutions Regulatory Agencies

During 1998, the Agencies monitored the ASB's efforts to amend the Uniform Standards of Professional Appraisal Practice ("USPAP") and commented on related ASB Exposure Drafts. In particular, the Agencies were concerned about how the proposed USPAP changes would affect appraisals performed in connection with federally related transactions and whether those changes would require the Agencies to amend their appraisal requirements.

The Agencies advised their respective regulated financial institutions about the availability of the ASC's National Registry on the Internet. The Agencies noted that the on-line availability of the National Registry should streamline the appraiser hiring process for regulated financial institutions.

FRB and NCUA adopted amendments to their respective appraisal regulations. On September 29, 1998, NCUA published in the *Federal Register* an

interim final rule amending its member business loan rule and related rules. See 63 F.R. 51793. Among other things, NCUA proposed authorizing its regional directors to waive from the appraisal requirement a category of loans meeting the definition of a member business loan.

On November 27, 1998, FRB published in the *Federal Register* a final rule amendment to subpart G of the FRB's Regulation Y, *Appraisal Standards for Federally Related Transactions*. The amendment exempts any transaction involving underwriting or dealing of mortgage-backed securities from the FRB's appraisal requirements. 63 F.R. 65532. The amendment enables a bank holding subsidiary engaged in underwriting and dealing in securities (a so-called section 20 subsidiary) to underwrite and deal in mortgage-backed securities without demonstrating that the loans underlying the securities are supported by appraisals that meet the FRB's appraisal requirements.

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Activities of the Appraisal Foundation

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

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

Title XI requires that the ASC provide grants to the Foundation in such amounts as the ASC deems appropriate to support the Title XI-related activities of the Foundation, *i.e.*, the activities of the ASB and the AQB. Title XI also requires the ASC to monitor and review the practices, procedures, activities and organizational structure of the Foundation. In that regard, the ASC and its staff monitored and reviewed the following activities in 1998.

The Appraisal Foundation Board of Trustees

The Foundation is headed by a 32-person

Board of Trustees (“Trustees”), fourteen of which are elected at-large. The balance of the Board is appointed by the Foundation’s sponsoring organizations and advisory councils. During 1998, Lloyd Hanford was Chairman of the Trustees, and James VanDerWerff was Vice Chairman.

The Trustees held two meetings in 1998. During the course of these meetings, the Trustees implemented a new committee, the Oversight Subcommittee of the Executive Committee, to internally monitor the activities of the ASB and the AQB. The Trustees also adopted a policy change precluding current members of the ASB and AQB from serving on a state appraiser regulatory body.

The Trustees elected officers, At-Large Trustees and appointed individuals to serve on the AQB and ASB, for terms commencing on January 1, 1999. The 1999 officers of the Foundation are: James VanDerWerff, Chair; J. Michael Hill, Vice Chair; Tharrell Ming, Secretary; D. Allan Beatty, Assistant Secretary; John F. Fiene, Treasurer; and, Robert Tarvin, Assistant Treasurer. Three individuals were elected to serve three-year terms on the Board of Trustees as At-Large Trustees: John V. Lanterman, Andy Peressin, and, James B. “Nardie” Vine. The Trustees appointed Jack P. Friedman to the AQB for a three-year term. In addition, Scott Williams was re-appointed as 1999 AQB Chair and Arlen Mills was re-appointed as 1999 AQB Vice Chair. The Trustees appointed Lawrence Ofner to the ASB for a three-year term. Ken Kaiser was appointed as the 1999 ASB Chair and Tim Leberman was appointed as the 1999 ASB Vice Chair.

The Appraiser Qualifications Board

The AQB accomplished the following items in three public meetings:

Real Property Appraiser Examination Update

Title XI requires that States use examinations that have been AQB-reviewed and approved. The AQB adopted Examination Content Outlines (“ECOs”) in 1993 for individuals, testing companies, and States to use in developing exams. The AQB is using the Real Property Appraisal Body of Knowledge, which was adopted in 1997, to identify subject areas of the ECOs that need updating. The AQB has issued a Request for Proposal to contract with a psychometric expert to assist in updating the ECOs.

Course Approval Program

The AQB approved seven courses under its Course Approval Program. The program assists educational providers and State agencies by simplifying and streamlining the course approval process and is available to all providers of real estate appraisal related education. This year, the AQB approved its first Internet-offered continuing education course.

The Appraisal Standards Board

The ASB took the following actions in four public meetings:

Uniform Standards of Professional Appraisal Practice

The Foundation published the 1999 USPAP, its seventh edition, which became effective on March 31, 1999.

USPAP Revisions

After two exposure drafts, the ASB issued revisions to the Ethics and Departure Provisions of USPAP, as well as clarifying and technical changes to the Introduction and Standards 1-3.

“Working Group” Formation

ASB established a “working group” process to gather information prior to issuing exposure drafts. The AQB hopes that this process will provide an effective way of researching, communicating or reconciling various opinions regarding USPAP within the appraisal community.

USPAP Review and Instructor Training Sessions

The ASB presented two USPAP Review and Instructor training sessions. These two-day sessions provided a review of the changes to the 1999 USPAP and an overview on how to teach USPAP.

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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 Treasury and disbursements made using these monies must be repaid. During FY 1998, the ASC authorized repayment of \$500,000 to Treasury, completely repaying the Treasury advance in accordance with 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 obligations. 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 Regis-

try fees. Fees received during FY 1998 totaled \$2,519,187.

Attached as Appendix A are the ASC's FY 1998 audited financial statements. The audited financial statements show that the ASC's financial position improved since last year's audit. Revenue and asset amounts increased. The fund balance increased over last year's positive amount, and liabilities decreased significantly. In general, the ASC's net position increased significantly. 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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Appendix A–Financial Statements

APPRAISAL SUBCOMMITTEE

**Financial Statements for the Year Ended September
30, 1998, and Independent Auditors' Report**

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Independent Auditor's Report

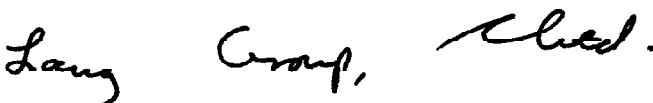
The Appraisal Subcommittee of the
Federal Financial Institutions Examination Council

We have audited the accompanying statement of financial position of the Appraisal Subcommittee as of September 30, 1998 and the related statements of operations and changes in net position and cash flows for the year then ended. These financial statements are the responsibility of the Appraisal Subcommittee's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards 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 audits provide 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 the Appraisal Subcommittee as of September 30, 1998, and the results of its operations and its cash flows for the year then ended in conformity with generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we have also issued our report dated May 28, 1999, on our tests of the Appraisal Subcommittee's compliance with certain provisions of laws and regulations, and on our consideration of its internal control over financial reporting.



Bethesda, Maryland
May 28, 1999

**Appraisal Subcommittee
Statement of Financial Position
September 30, 1998**

Assets

Fund balances with Treasury	\$ 3,148,426
Accounts receivable	481,817
Prepaid expenses	890
Property and Equipment, net	<u>158,522</u>

Total Assets \$ 3,789,655

Liabilities and Net Position

Liabilities

Accounts payable	229,807
Deferred revenue	1,056,035
Accrued expenses	<u>47,265</u>
Total liabilities	1,333,107

Commitments and Contingencies —

Net Position 2,456,548

Total Liabilities and Net Position \$ 3,789,655

The accompanying notes are an integral part of these financial statements.

Appraisal Subcommittee
Statement of Operations and Changes in Net Position
Year Ended September 30, 1998

Revenue	
Appraiser fees	\$ 2,519,187
Other	<u>434</u>
Total revenue	<u>2,519,621</u>
Expenses	
Operating Expenses	
Personnel compensation and benefits	586,823
Contracted services	161,570
Rent, communications, and utilities	135,629
Travel and transportation	57,937
Depreciation and amortization	45,131
Supplies and materials	15,600
Printing and reproduction	7,585
Other expenses	<u>5,635</u>
Total operating expenses	1,015,910
Appraisal Foundation grant	<u>592,915</u>
Total expenses	<u>1,608,825</u>
Excess of Revenue over Expenses	910,796
Net Position , beginning of year	<u>1,545,752</u>
Net Position , end of year	<u>\$ 2,456,548</u>

The accompanying notes are an integral part of these financial statements.

**Appraisal Subcommittee
Statement of Cash Flows
Year Ended September 30, 1998**

Increase (Decrease) in Fund Balances with Treasury

Cash Flows from Operating Activities

Excess of revenue over expenses	\$ <u>910,796</u>
Adjustments to reconcile excess of revenues over expenses to net cash provided by operating activities	
Depreciation	45,131
Increase in accounts receivable	(481,817)
Increase in prepaid expenses	(890)
Decrease in accounts payable	(44,946)
Increase in deferred revenue	463,265
Decrease in accrued expenses	<u>(16,491)</u>
Total adjustments	<u>(35,748)</u>

Net Cash Provided by Operating Activities 875,048

Cash Flows from Investing Activities

Purchase of property and equipment (131,405)

Cash Flows from Financing Activities

Repayment of borrowings from Treasury (500,000)

Net increase in fund balances with Treasury 243,643

Fund Balances with Treasury, beginning of year 2,904,783

Fund Balances with Treasury, end of year \$ 3,148,426

The accompanying notes are an integral part of these financial statements.

Appraisal Subcommittee
Notes to Financial Statements
September 30, 1998

Note 1. General Information and Summary of Significant Accounting Policies

General Information

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 provides 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.

Summary of Significant Accounting Policies

Basis of Accounting

The accompanying financial statements have been prepared on the accrual basis of accounting. Accordingly, revenue is recognized when earned and expenses are recognized when incurred.

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 Financial Statements
September 30, 1998

Note 1. General Information and Summary of Significant Accounting Policies – (continued)

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. The Appraisal Subcommittee capitalizes all purchases above \$2,500 and when assets are sold or disposed of, the cost and the related accumulated depreciation are removed from the accounts with any gain or loss reflected in operations currently. Expenditures for repairs and maintenance are charged to expense as incurred.

Deferred Revenue

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.

Pervasiveness 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.*Financial Instruments and Credit Risk*

Financial instruments which potentially subject the Appraisal Subcommittee to concentrations of credit risk consist principally of accounts receivable. Credit risk with respect to accounts receivables is limited because the Appraisal Subcommittee deals with a large number of states and territories over a wide geographic area. As of September 30, 1998, the Appraisal Subcommittee had no significant concentration of credit risk.

Appraisal Subcommittee
Notes to Financial Statements
September 30, 1998

Note 2. Property and Equipment

Property and equipment consists of the following at September 30, 1998:

	Cost	Accumulated Depreciation	Net Book Value
Computer equipment	\$266,439.00	\$129,707.00	\$136,732.00
Furniture	<u>59,148</u>	<u>37,358</u>	<u>21,790</u>
	<u>\$325,587.00</u>	<u>\$167,065.00</u>	<u>\$158,522.00</u>

Note 3. Borrowings

Under Title XI of FIRREA, the Appraisal Subcommittee received a one-time payment of \$5,000,000 from the Department of Treasury to fund start-up expenses. Title XI of FIRREA provides that thereafter expenses of the Appraisal Subcommittee must be funded through the collection of annual registry fees for State licensed and certified appraisers. Pursuant to a financing agreement with the Department of Treasury, the \$5,000,000 was to be repaid to the Treasury general fund. The financing agreement provided for interest-free financing and did not provide for a specified repayment term. During fiscal year 1998, the Appraisal Subcommittee repaid the remaining balance in the amount of \$500,000 to the Department of Treasury.

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 1998 for the Civil Service Retirement System and the Federal Employees' Retirement system aggregated approximately \$53,000.

Appraisal Subcommittee
Notes to Financial Statements
September 30, 1998

Note 4. Retirement and Benefit Plans – (continued)

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 these 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 \$3,937,300 was expended through September 30, 1998. As of September 30, 1998, the Appraisal Subcommittee has an outstanding grant commitment of approximately \$367,917 to the Foundation for the grant period ended December 31, 1998.

Note 6. Interagency Transactions

The Appraisal Subcommittee entered into a Memorandum of Understanding with the Federal Financial Institutions Examination Council (FFIEC) in fiscal year 1992 to share the costs of office space and certain office systems such as computers, telephone systems, copiers, and other similar equipment. The terms of the agreement are binding until December 31, 1999, with payments due quarterly, as billed by the FFIEC.

On October 1, 1998, the Appraisal Subcommittee and FFIEC moved into new premises under a lease signed by the Board of Governors of the Federal Reserve System. 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 \$115,500 for the year ended September 30, 1998.

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 1998 include approximately \$26,261 for these services.

**Independent Auditor's Report
on Compliance and on Internal Control Over
Financial Reporting Based on an Audit of
Financial Statements Performed in Accordance with
*Government Auditing Standards***

The Appraisal Subcommittee of the
Federal Financial Institutions Examination Council

We have audited the financial statements of the Appraisal Subcommittee as of and for the year ended September 30, 1998, and have issued our report thereon dated May 28, 1999. We conducted our audit in accordance with generally accepted auditing standards 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 Appraisal Subcommittee and its management and is not intended to be and should not be used by anyone other than these specified parties.

Bethesda, Maryland
May 28, 1999

Appendix B–Policy Statements

Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers

September 22, 1997

**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 regulations¹ 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.

¹Two 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.

The Agencies have adopted comprehensive regulations and policies specifying when appraisals by State certified or licensed appraisers must be obtained by regulated financial institutions.

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.

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, 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.²

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.

²Title 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 disciplined 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.³ If an appraiser, for any reason,

³ 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.

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 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) 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 avail-

able 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.

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.

September 22, 1997

Appendix C—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 cer-

tified 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 instrumentality 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. Sub-

sequent 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

(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.

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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