

Appraisal Subcommittee

Federal Financial Institutions Examination Council

ANNUAL REPORT 1995

■ ■ ■ ■ ■ ■
Appraisal Subcommittee
Federal Financial Institutions Examination Council

ANNUAL REPORT 1995

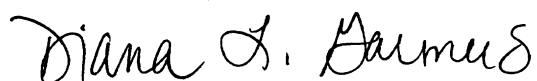
Letter of Transmittal

January 31, 1995

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 1994 Annual Report of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Sincerely,

A handwritten signature in black ink that reads "Diana L. Garmus". The signature is written in a cursive style with a large initial "D" and "G".

Diana L. Garmus
Chairperson

Table of Contents

Letter of Transmittal	i
Table of Contents	iii
The Appraisal Subcommittee—An Introduction	1
Message from the Chairperson	3
Administration of the ASC	7
Field Reviews of State Appraiser Regulatory Agencies	9
Activities of the Federal Financial Institutions Regulatory Agencies	11
Activities of the Appraisal Foundation	13
The Appraisal Foundation’s Board of Trustees	13
The Appraiser Qualifications Board	14
The Appraisal Standards Board	15
Financial Status of the ASC	17
Appendix A—Financial Statements	19
Appendix B—Relevant Statutes	33

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 subcommittee under the FFIEC. 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 financial institutions.

The ASC is comprised of 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”), the National Credit Union Administration (“NCUA”), collectively, the Federal financial institutions regulatory agencies (“Agencies”), and the 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 and the Resolution Trust Corporation (“RTC”) regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of State licensed or State certified appraisers;
- Maintain a national registry of State licensed and certified appraisers (“Registry”) who may perform appraisals in 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.

Message from the Chairperson

In 1995, the national scheme of appraisal regulation envisioned by Title XI marked its third 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 and Appraisal Standards Boards, and the Agencies and HUD.

The ASC's expenses for the fiscal year ("FY") ending September 30, 1995, were \$1,569,543. This amount included \$516,586 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. In 1995, the ASC repaid \$1.25 million to Treasury. The outstanding balance of the Treasury advance, on September 30, 1995, was \$3 million. The ASC plans to repay Treasury fully by the end of FY 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 86,000 entries pertaining to more than 80,000 individual appraisers. During FY 1995, the ASC received Registry fees totalling \$2,813,512.

In 1995, the ASC created an off-site survey form entitled the *Annual Survey of State Appraiser Regulatory Agencies* ("Annual Survey") to be used to augment the ongoing field review process. The Annual Survey's purpose is to provide the ASC with a synopsis of each State's appraisal program activities as of the beginning of the calendar year and to update the ASC on State activities since the last on-site review. The Annual Survey consists of two parts. The first

part contains a questionnaire requesting specific data about the operation of a State's appraiser regulatory program. This part was sent to every State agency in June, and the ASC received responses from all but two States. The second part of the Survey requests supplemental information in narrative form. This part is not sent to each State annually; the ASC selects a number of States throughout the year to receive it. Subsequent Annual Surveys will be used to continue to update data and to determine the need for future on-site field reviews. During 1995, the ASC did not conduct on-site reviews of State agencies.

The ASC continued to find States in substantial compliance with the intent of Title XI. 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. 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.

On September 12, 1995, the ASC published in the *Federal Register* a notice to solicit comments on how it should implement Section 315 of the Riegle Community Development and Regulatory Improvement Act of 1994 ("CDRIA"). This Section amended Section 1122 of Title XI by requiring "A State appraiser certifying or licensing agency . . . not [to] impose excessive fees or burdensome requirements, as determined by the [ASC], for temporary practice . . ." and by requiring "[t]he [ASC to] 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."

The notice discussed the ASC's current policies regarding temporary practice and reciprocity and presented several alternatives that could facilitate the establishment of a more efficient and uniform temporary practice and reciprocity system. The ASC received over forty comment letters from appraisers and appraiser organizations, financial institutions and their trade groups and State agencies. At year-end, the ASC was analyzing the comments and plans to take further action in 1996.

The ASC continued to monitor and review the activities of the Foundation and to fund the portions of its expenses that pertain to the 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 1996 grant of \$537,139 to the Foundation in support of the activities of its Board of Trustees and the Standards and Qualifications Boards.

The ASC continued to work closely with the five Agencies as part of its ongoing responsibility to monitor the requirements established by the Agencies and the RTC 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. The NCUA amended its appraisal regulations, among other things, to make it substantively more consistent with the appraisal regulations of the other Agencies. The NCUA, however, chose to retain its threshold of \$100,000 for residential real estate and \$50,000 for commercial real estate under which an appraisal by a State certified or licensed appraiser would not be required.

The ASC sponsored its fifth Conference for State Appraiser Regulators. Representatives of 40 States attended. The one-day Conference was

organized around the theme, "Title XI after five years; where have we been and where are we going?" Working groups discussed: temporary practice and reciprocity; State enforcement of the Uniform Standards of Professional Appraisal Practice ("USPAP") and how it can be improved; the need for consistency in State experience and education requirements and approvals; the legislative and regulatory climates in the States; the understandability of USPAP to appraisers and State regulators; and the status and use of the Registry.

Finally, the ASC took several steps to modernize and automate its financial system. The ASC hired Raffa & Associates to perform routine accounting functions, awarded a three-year contract to Deloitte & Touche LLP to perform year-end audits of the ASC's financial system and voted to shift its Treasury related financial accounting and travel services from HUD to the General Services Administration ("GSA").

During 1995, proposed legislation was introduced in Congress that would abolish or consolidate the ASC. The ASC-related sections are part of a general financial institutions deregulation bill which, at year-end, was stalled in the Senate. In general, the bill proposes to:

- Amend Title XI to terminate the ASC as an independent Federal agency and to end certain functions of the ASC, including the extension of grants to the Foundation; and
- Assign the ASC's remaining functions, with some substantive changes, to the FFIEC. These functions would include monitoring State appraiser regulatory programs, monitoring and reviewing the activities of the Foundation and maintaining the Registry.

During 1996, the ASC plans to finish implementing the temporary practice and reciprocity provisions of CDRIA. It also will continue to supervise the activities of State appraiser regulatory programs through its off-and on-site moni-

toring program and to oversee the Foundation and its activities through the grant administration process and participation in Foundation events.

Administration of the ASC

Meetings of the ASC are held monthly. Special meetings may be scheduled at the request of an ASC member. The ASC's activities are now funded by annual Registry fees of \$25 from each appraiser who is licensed or certified by a State to perform appraisals in federally related transactions. Title XI requires State agencies to forward these fees to the ASC at least annually. Title XI authorized a one-time, \$5 million advance from the Treasury to be used for start-up funding. During 1995, the ASC reimbursed the Treasury \$1,250,000 and will continue with its plan to reimburse the Treasury annually. All advances should be repaid by the end of FY 1998.

The ASC is supported by a small (currently seven employees), full-time, professional staff in its administrative offices. The Executive Director acts as the ASC's Secretary. The organization and responsibilities of the ASC's staff are as follows:

- *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 Registry and for providing financial and facilities management, personnel and payroll, procurement and contracting and government technical representative services to the ASC and the staff.

- *Associate Director for Policy and Programs*—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 professional legal work of the ASC. Serves as legal advisor to the ASC, its Executive Director and the ASC staff, and renders legal advice with regard to statutes and other laws that concern regulation of the appraisal industry and that govern ASC operations.

The members of the ASC and their terms of service during 1995 are:

- Chairperson, Diana L. Garmus, Director for Corporate Activities, OTS, September 1990 to present;
- Member, P. Michael Yuenger, National Bank Examiner, OCC, April 1994 to present;
- Member, Morris E. Carter, Director, Single Family Development Division, HUD, October 1991 to April 1995;
- Member, Mark W. Holman, Acting Branch Chief, Mortgage Underwriting Insurance Branch, HUD, April 1995 to present;
- Member, Robert F. Mialovich, Associate Director, Office of Policy, Division of Supervision, FDIC, November 1989 to present;
- Member, Rhoger H Pugh, Assistant Director, Division of Banking Supervision and Regulation, FRB, November 1992 to present;
- Member, Herbert S. Yolles, Director, Division of Risk Management, NCUA, July 1994 to present.

The Appraisal Subcommittee staff are:

- Edwin W. Baker, Executive Director
- Ronald W. Peppe, Associate Director for Policy and Programs
- Vicki A. Ledbetter, Appraisal Policy Manager
- Linda K. Matthias, Appraisal Policy Manager
- Lori L. Schuster, Head Secretary
- Ray M. Seward, Information Management Specialist
- Marc L. Weinberg, General Counsel

Field Reviews of State Appraiser Regulatory Agencies

In 1995, the ASC initiated an off-site program for monitoring the States' requirements, practices and procedures for the certification and licensing of appraisers. The ASC developed a two-part form, and the Office of Management and Budget ("OMB") approved the data collection. Part A is the Annual Survey, and Part B is a request for supplementary narrative information. Part B will be sent to about 20 States during each year. The ASC did not conduct any on-site field reviews during 1995.

The Annual Survey is to be used to augment the ongoing field review process. The purpose of the Annual Survey is to provide the ASC with a synopsis of each State's appraisal program activities as of January 1 of each year and to update the ASC on State activities since the last on-site review. Annual Surveys also will be used to determine the need for future on-site field reviews.

Information requested in the Annual Survey encompassed the following subject areas:

- State appraiser agency name and address, name of staff administrator, legal counsel and investigator;
- Type of State appraiser statute (mandatory, mandatory for Federally related transactions or voluntary);
- Appraiser census;
- Statement of revenues, budget and fee structures;
- Total fees for 1994 for each classification excluding Registry fees;
- State education, experience and continuing education requirements;

- Number of examinations taken and passed for each appraiser category;
- Enforcement;
- Number and source of complaints received;
- Jurisdiction of State enforcement/disciplinary provisions;
- Enforcement process;
- Number of hearings held by State;
- Number and type of disciplinary actions;
- Reciprocity requirements; and
- Temporary practice requirements.

Analysis of the Annual Survey data received will provide the ASC with information regarding trends in appraiser numbers and budgets, changes in State appraiser laws, possible problems with temporary practice and/or reciprocity and enforcement issues.

Overall, State appraiser regulatory programs appear to be operating in a manner consistent with Title XI. Initial analysis of the information received in response to the Annual Survey highlighted some significant differences among the States' regulatory programs. For example, some States have adopted more stringent temporary practice procedures than others, which may pose an obstacle to out-of-State appraisers performing appraisals in those States. In addition, some States' education and experience requirements for appraiser certification differ from the criteria established by the Qualifications Board, which could pose barriers to efforts to encourage reciprocity among the States. Initial analysis also suggested that some State regulatory programs may be marginally funded.

The ASC will continue to work with States to ensure accurate numbers of appraisers on the Registry. The ASC will determine the need for future on-site State field reviews based on information received in the Annual Survey as well as other off-site monitoring procedures. The

ASC believes that the two-tiered survey procedure, on-site and off-site, has resulted in a more efficient, yet effective, State monitoring program, with reduced compliance and administrative expenses for all involved.

Activities of the Federal Financial Institutions Regulatory Agencies

During 1995, HUD appointed Mark W. Holman as an ASC member, replacing Morris E. Carter.

The NCUA significantly amended its appraisal regulations by adopting final amendments to its appraisal regulations. The amendments were published in the October 4, 1995 edition of the *Federal Register*. The amendments, among other things:

- Retained the \$100,000 threshold at or below which residential real estate related financial transactions are not subject to Title XI and retained the \$50,000 threshold for commercial transactions;
- Expanded and clarified existing exemptions to the Title XI appraisal requirement, such as the “abundance of caution” exemption;
- Specified when exempt transactions nevertheless require appropriate evaluations of collateral value;
- Significantly reduced the number of required supervisory appraisal standards in addition to USPAP;
- Allowed the use of USPAP’s Departure Provision; and
- Clarified the requirements governing appraisal content and use of appraisals prepared for other financial services institutions.

Activities of the Appraisal Foundation

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

To date, more than 80,000 individuals have become State certified or licensed appraisers based on the Criteria as imposed by State agencies. Moreover, all State appraiser laws require those granted certification or licensure to adhere to USPAP in their performance of appraisal assignments in connection with federally related transactions and reference it as the basis for enforcement.

Due to the public charge given to the Foundation by Title XI, the Foundation also ensures that USPAP and the Criteria are disseminated to State and Federal regulators, appraisers, users of appraisal services and the general public. Towards that end, the Foundation publishes each document and provides every licensed and certified appraiser with a complimentary quarterly newsletter which highlights the Boards' activities, notes any changes, modifications or clarifications made in USPAP or the Criteria and invites comments on work in progress. 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 a grant to the Foundation to support its Title XI related activities. The ASC ensures Foundation compliance by monitoring its activities. Accordingly,

the ASC and its staff observed the following actions of the Foundation during 1995.

The Foundation's Board of Trustees

The Foundation is headed by a 31 person Board of Trustees ("Trustees"), representing 17 organizations. The 1995 leadership of the Trustees included: Joseph S. Durant, Jr., Chairman; J. Carl Schultz, Jr., Vice Chair; Craig A. Auberger, Secretary; Lloyd D. Hanford, Jr., Assistant Secretary; Joseph P. Hunt, Treasurer; and James VanDerWerff, Assistant Treasurer.

In February, the Trustees' Long Term Planning Committee drafted a five-year (1995-1999) Business Plan that sets forth the consensus views of the Trustees regarding the direction in which the officers and staff of the Foundation are to proceed. These goals and strategies should assure the most effective use of resources and steady progress toward the fulfillment of the Foundation's mission.

In September 1995, the Trustees approved and appropriately amended its by-laws to permit a merger of the Appraisal Standards Advisory Council and the Appraisal Foundation Advisory Council into The Appraisal Foundation Advisory Council ("TAFAC"). TAFAC now consists of 49 voluntary representatives from non-profit organizations and government agencies that represent appraisers, users of appraisal services and regulators. TAFAC will offer information from the "market place" perspective on the work of the Standards Board, the Qualifications Board and the Trustees.

It is the role of the Trustees to appoint members to, and provide financial support for, the Standards and Qualifications Boards. In October 1994, the Trustees appointed new members and selected the 1995 officers for the Boards.

Effective January 1, 1995, Sherwood Darington and Anthony Reynolds were appointed Chairman of the Standards Board and Qualifications Board, respectively. The 1995 Standards Board members were Timothy Leberman, Daniel Dinote, W. David Snook and Laurie Van Court. The 1995 Qualifications Board members were James Klopfenstein, Stephen Williams, Gregory Gilbert and Scott Williams. In addition, the Trustees elected four new At-Large Trustees.

The Appraiser Qualifications Board

In response to inquiries and concerns expressed by appraiser regulatory officials, appraisers and users of appraisal services, the Qualifications Board addressed the following issues in the two meetings held in 1995:

- *Interpretation and Clarification on Qualifying Experience*

The following interpretation on qualifying experience for fee and staff appraisers was officially adopted in October 1995:

Experience obtained after January 1, 1991 shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP).

- *Reevaluation of Previously Approved Examinations*

The Qualifications Board has authority under Title XI to review and approve State certified appraiser examinations. In 1995, the Qualifications Board engaged the services of Hoffmann Research Associates, Inc., to perform a psychometric review of the appraiser examinations administered by the State agencies or their designees for compliance with the National Content Outline. The resulting report, *Evaluation*

of Appraiser Certification/Licensing Examination, was provided to the Qualifications Board in March. A supplemental report was submitted in May. Hoffmann did not find any major psychometric problems on any of the examinations being given. Among the general conclusions drawn were: (1) all tests showed acceptable levels of reliability; and (2) item analysis revealed that the level of item difficulty, item discrimination, and distractor performance was acceptable.

- *Edits to the Interpretations and Clarifications of the Criteria*

The Qualifications Board began reviewing and considering editing the Criteria to make it more understandable and to enhance its consistency with the language in USPAP.

In 1995, as a means to facilitate its efforts, selected Qualifications Board members and established task forces began studying the issues identified below. The results of each should be presented to the Qualifications Board during 1996.

- *Real Property Appraisal Body of Knowledge*

The Qualifications Board Real Property Appraisal Body of Knowledge Task Force will explore the creation of a body of knowledge for real property and personal property appraising. The Task Force was charged with the responsibility of specifying the types of appraisal educational experiences that will create a firm appraisal foundation in each discipline.

- *Business Valuer Qualification Criteria*

The Qualifications Board is considering testimony received at its October meeting regarding the development of a Business Valuer Qualification Criteria. The panelists provided

comments as to the need and potential use of such criteria from the perspective of organizations of business valuers and users of business valuers.

- *Development of Personal Property Qualification Criteria*

The Qualifications Board Personal Property Appraiser Criteria Task Force met on October 21, 1995, to define the project and begin preliminary research. The Task Force is scheduled to provide recommended personal property appraiser criteria for Qualifications Board consideration by the end of 1996.

The Appraisal Standards Board

During its four meetings in 1995, the Standards Board addressed inquiries and concerns expressed by appraiser regulatory officials, appraisers and users of appraisal services and responded via the documents listed below:

- *Uniform Standards of Professional Appraisal Practice*

The 1996 edition is the fifth annual publication of USPAP. This edition had been distributed and became effective January 1, 1996. In order to clarify public understanding of the effective dates of USPAP revisions, Statements and Advisory Opinions, there will no longer be mid-year supplements to USPAP editions, as has been done previously.

- *USPAP Revisions*

The Standards Board adopted revisions to the Record Keeping section of the Ethics Provision and Revisions to Standard 3. The revision to the Record Keeping section 9 of the Ethics Provision clarified the appropriate content of an

appraiser's workfile. The revisions adopted to Standards Rule 3 discussed how review appraisers should treat data which were not available as of the date of the original appraisal.

The Standards Board has become aware that Federal and State appraiser regulators and courts are finding some aspects of USPAP difficult to use in their efforts to enforce appraisal laws, regulations and policies. Towards that end, the Board created the USPAP Understandability and Enforceability Task Force. The Task Force is to perform its comprehensive study of USPAP during 1996.

- *Statement on the Electronic Transmission of Reports*

In July 1995, the Standards Board adopted *Statement Number 8* entitled, "Electronic Transmission of Reports." Issues addressed in the Statement included the appraisers' ability to transfer appraisal reports electronically in accordance with USPAP, security of the appraisal report and a definition of "signature."

- *Advisory Opinions*

Advisory Opinion Number 13 on "Performing Evaluation of Real Property Collateral to Conform with USPAP," approved on July 18, 1995, discussed and provided illustrations of the appraiser's ability to perform evaluations in accordance with USPAP. *Advisory Opinion Number 14* on "Appraisal for Subsidized Housing" was also approved on July 18 and addressed appraiser competency and value definition issues relevant to the appraisal of subsidized housing. *Advisory Opinion Number 15* on "Using the Departure Provision Developing Limited Appraisals," approved on September 19, 1995, discussed an appraiser's ability to utilize the Departure Provision in developing a value

estimate and provided illustrations of situations in which the development of a Limited Appraisal may be appropriate, in accordance with USPAP.

- *A Guide For USPAP Instructors*

The Standards Board updated its *Guide for Instructors Teaching Courses or Seminars on the USPAP* to reflect revisions and additions to USPAP adopted in 1995. It became effective January 1, 1996. The purpose of the Guide is to assist instructors in teaching USPAP in a uniform and consistent manner and is to be used in conjunction with other teaching material provided by the course sponsor. To coincide with the publications of the 1996 edition of USPAP and the Instructor's Guide, the Standards Board offered USPAP update and instructor training sessions in Chicago and San Francisco. Although the sessions were geared toward instructors, a number of appraisers, regulators and users of appraisal services also attended the sessions to benefit from the information presented.

The Standards Board, through its task forces, began exploring the issues identified below in 1995. The resulting suggestions and/or recom-

mendations will be presented to the Standards Board in 1996:

- *Revision of Standard 6-Mass Appraisal and Reporting*

The Mass Appraisal Task Force identified the revisions regarding the development, reporting and review of mass appraisal assignments that will be submitted to the Standards Board.

- *Revisions to Standards Rules 3, 7 and 8 Regarding Personal Property*

The Personal Property Task Force met in late 1995 and reached an agreement on the proposed revisions to Standards 3 to include the review of personal property appraisals, and Standards 7 and 8 to allow for the development of Limited Appraisals of personal property and to include three reporting options.

- *Edits Regarding Business Valuation*

The Business Valuation Task Force is reviewing suggested edits regarding business appraisal review and reporting options.

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 1995, the ASC repaid \$1.25 million to Treasury. This payment reduced the remaining Treasury advance to \$3 million. The ASC anticipates that the advance will be fully repaid 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 Registry fees. Fees received during FY 1995 totalled \$2,813,512.

Attached as Appendix A are the ASC's FY 1995 audited financial statements. In response

to the recommendations made by the external auditors as a result of their 1994 audit, the ASC prepared independent accounting records for FY 1995, and moved its government accounting functions from HUD to GSA.

The audited financial statements show that the ASC's financial position improved since last year's audit. Revenue and asset amounts have increased, the fund balance is positive and liabilities have decreased. In general, there has been a significant increase in excess revenues over expenses and an improvement in the ASC's net position. 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.

Appendix A

Financial Statements

for the Years Ended
September 30, 1995, and 1994,
and Independent Auditor's Report



INDEPENDENT AUDITORS' REPORT

To the Appraisal Subcommittee of the
Federal Financial Institutions Examination Council:

Summary

We have audited the accompanying statement of financial position of the Appraisal Subcommittee as of September 30, 1995, and the related statements of operations and changes in net position and of cash flows for the year then ended.

In our opinion, the 1995 financial statements are presented fairly, in all material respects.

We found:

- No matters involving the internal control structure and its operation that we consider to be material weakness; and
- No material noncompliance with selected provisions of applicable laws and regulations tested.

These conclusions and the scope of our work are discussed in more detail below.

Opinion on Financial Statements

In our opinion, the 1995 financial statements present fairly, in all materials respects, the financial position of the Appraisal Subcommittee at September 30, 1995, and the results of its operations and its cash flows for the year then ended in conformity with generally accepted accounting principles.

The financial statements of the Appraisal Subcommittee for the year ended September 30, 1994, were audited by other auditors whose report dated February 15, 1995, expressed an unqualified opinion on those statements.

As discussed in Note 8 to the financial statements, there is proposed legislation in the U.S. Congress that would affect the operations of the Appraisal Subcommittee. The financial statements do not include any adjustments that may be required as a result of Congressional actions.

Report on Internal Control Structure

The management of the Appraisal Subcommittee is responsible for establishing and maintaining the internal control structure of the Appraisal Subcommittee. In fulfilling this responsibility, esti-

mates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that:

- Transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of the financial statements in accordance with generally accepted accounting principles;
- Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition; and
- Transactions, including those related to obligations and costs, are executed in compliance with:
 - Laws and regulations that could have a direct and material effect on the financial statements; and
 - Any other laws and regulations that the Appraisal Subcommittee management has identified as being significant for which compliance can be objectively measured and evaluated.

Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the 1995 financial statements of the Appraisal Subcommittee, we obtained an understanding of the internal control structure. With respect to the internal control structure, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on the internal control structure. Accordingly, we do not express such an opinion.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities 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 structure and its operation that we consider to be material weakness as defined above.

However, we noted certain matters involving the internal control structure and its operation that we have reported to the management of the Appraisal Subcommittee in a separate letter dated January 24, 1996.

Compliance with Laws and Regulations

Compliance with laws, regulations, and contracts applicable to the Appraisal Subcommittee are the responsibility of the management of the Appraisal Subcommittee. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of the Appraisal Subcommittee's compliance with certain provisions of applicable laws and regulations. However, the objective of our audit was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported herein under generally accepted government auditing standards.

Management's Responsibilities

Management has responsibility for:

- Preparing the financial statements in accordance with generally accepted accounting principles;
- Establishing and maintaining an effective internal control structure; and
- Complying with applicable laws and regulations.

Management is also responsible for obtaining audit coverage that is broad enough to help fulfill the reasonable needs of potential users of the audit report. With respect to audit coverage of internal controls and compliance with laws and regulations, management engaged us to perform those procedures required in a financial statement audit conducted in accordance with generally accepted government auditing standards. Those procedures were not sufficient to provide a basis for expressing an opinion on internal controls or compliance. Had we been engaged to apply additional agreed-upon procedures or perform an examination of controls or compliance with laws and regulations, we might have discovered and reported deficiencies in internal controls or instances of noncompliance.

Independent Auditor's Responsibilities

Our responsibility is to express an opinion on the 1995 financial statements based on our audit. Accordingly, we planned and performed our audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and are presented fairly in accordance with generally accepted accounting principles. We are also responsible for testing compliance with selected provisions of applicable laws and regulations that may materially affect the financial statements.

To fulfill our responsibility, we:

- Examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;



- Assessed the accounting principles used and significant estimates made by management;
- Tested compliance with selected provisions of the following laws and regulations that may materially affect the financial statements:
 - Budget Accounting and Procedures Act of 1950
 - Federal Managers' Financial Integrity Act of 1982
 - Federal Claims Collections Act, as amended by the Debt Collection Act of 1982
 - Prompt Payment Act
 - Civil Service Reform Act of 1978, as amended, and Fair Labor Standards Act
 - Civil Service Retirement Act of 1930
 - Federal Employees Health Benefits Act of 1959
 - Federal Employees Group Life Insurance Act of 1959
 - Federal Employees Group Life Insurance Act of 1980
 - Federal Employees' Compensation Act
- Evaluated the overall presentation of the financial statements and supplemental information;
and
- Performed other procedures as we considered necessary in the circumstances.

Our audit was conducted in accordance with generally accepted auditing standards and *Government Auditing Standards* issued by the Comptroller General of the United States. We believe that our audit provides a reasonable basis for our opinion.

Distribution

This report is intended for the information of the management of the Appraisal Subcommittee. However, this report is a matter of public record and its distribution is not limited.

Deloitte & Touche LLP
January 24, 1996

APPRAISAL SUBCOMMITTEE

STATEMENT OF FINANCIAL POSITION SEPTEMBER 30, 1995 AND 1994

ASSETS	1995	1994
FUND BALANCES WITH TREASURY	\$ 4,051,142	\$ 3,997,181
PROPERTY AND EQUIPMENT - Net (Note 3)	43,057	56,868
TOTAL ASSETS	<u>\$ 4,094,199</u>	<u>\$ 4,054,049</u>
LIABILITIES AND NET POSITION		
NON-FEDERAL LIABILITIES:		
Unearned Revenue	\$ 575,250	\$ 512,275
Accrued accounts payable	165,524	172,904
Accrued annual leave (Note 2)	22,191	29,106
Accrued payroll and benefits	21,685	26,695
Accrued travel payable	5,139	3,981
Total nonfederal liabilities	<u>789,789</u>	<u>744,961</u>
FEDERAL LIABILITIES:		
Borrowings from Treasury (Note 4)	<u>3,000,000</u>	<u>4,250,000</u>
Total liabilities	<u>3,789,789</u>	<u>4,994,961</u>
NET POSITION	<u>304,410</u>	<u>(940,912)</u>
TOTAL LIABILITIES AND NET POSITION	<u>\$ 4,094,199</u>	<u>\$ 4,054,049</u>

See notes to financial statements.

APPRAISAL SUBCOMMITTEE

STATEMENTS OF OPERATIONS AND CHANGES IN NET POSITION YEARS ENDED SEPTEMBER 30, 1995 AND 1994

	1995	1994
REVENUE:		
Revenue from services provided:		
Appraiser fees (Note 2)	\$ 2,813,512	\$ 1,890,730
Other	<u>1,353</u>	<u>3,075</u>
Total revenue	<u>2,814,865</u>	<u>1,893,805</u>
EXPENSES:		
Operating Expenses:		
Personnel compensation and benefits (Note 5)	675,840	671,426
Rent, communications, and utilities (Note 7)	170,102	179,149
Contracted services	97,566	100,378
Travel and transportation	17,103	45,971
Printing and reproduction	7,103	10,469
Depreciation and amortization	13,811	25,053
Supplies and materials	18,427	17,883
Other expenses	<u>53,005</u>	<u>7,477</u>
Total operating expenses	1,052,957	1,057,806
Appraisal Foundation grant (Note 6)	<u>516,586</u>	<u>654,497</u>
Total expenses	<u>1,569,543</u>	<u>1,712,303</u>
EXCESS OF REVENUE OVER EXPENSES	1,245,322	181,502
NET POSITION, BEGINNING BALANCE	<u>(940,912)</u>	<u>(1,122,414)</u>
NET POSITION, ENDING BALANCE	<u>\$ 304,410</u>	<u>\$ 940,912</u>

See notes to financial statements.

APPRAISAL SUBCOMMITTEE

STATEMENT OF CASH FLOWS AS OF SEPTEMBER 30, 1995 AND 1994

	1995	1994
CASH FLOW FROM OPERATING ACTIVITIES:		
Excess of revenue over expenses	\$ 1,245,322	\$ 181,502
Adjustments affecting cash flows:		
Increase in non-federal liabilities	44,828	386,225
Depreciation and amortization	<u>13,811</u>	<u>25,053</u>
Net cash from operating activities	1,303,961	592,780
CASH FLOW FROM FINANCING ACTIVITIES--		
Repayment of borrowings from Treasury	<u>(1,250,000)</u>	<u>(750,000)</u>
NET CASH PROVIDED BY (USED IN) OPERATING, INVESTING, AND FINANCING ACTIVITIES	53,961	(157,220)
FUND BALANCES WITH TREASURY, BEGINNING	<u>3,997,181</u>	<u>4,154,401</u>
FUND BALANCES WITH TREASURY, ENDING	<u>\$ 4,051,142</u>	<u>\$ 3,997,181</u>

See notes to financial statements.

APPRAISAL SUBCOMMITTEE

NOTES TO FINANCIAL STATEMENTS YEARS ENDED SEPTEMBER 30, 1995 AND 1994

1. ORGANIZATION

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (the Appraisal Subcommittee) was created by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989. The mission of the Appraisal Subcommittee is to monitor the certification and licensing programs of the States to determine compliance with Title XI of FIRREA; monitor the activities of the Appraisal Foundation; and monitor the requirements established by the Resolution Trust Corporation and the federal financial institutions regulatory agencies regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of State-licensed or State-certified appraisers. The mission of the 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.

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting—The accounting policies of the Appraisal Subcommittee conform to generally accepted accounting principles. Accordingly, the financial statements are presented on the accrual basis of accounting. Under the accrual basis, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to cash receipt or payment.

Revenue—The revenue of the Appraisal Subcommittee is derived principally from the assessment of an annual registry fee of \$25 for each State licensed and certified appraiser. Annual registry fees are considered earned when received. When multiple years of registry fees are received in advance, the amount pertaining to subsequent years is recorded as deferred revenue, and recognized as earned during the applicable fee year.

Annual, Sick, and Other Leave—Annual leave is accrued as it is earned and the accrual is reduced as leave is taken. The balance in the accrued annual leave account reflects current pay rates. Sick and other types of manifested leave are expensed as taken.

Grants—Title XI of FIRREA provides that amounts appropriated for or collected by the Appraisal Subcommittee shall 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 Qualifications Boards. Because the grants are purpose-restricted, grant expense is recorded by the Appraisal Subcommittee as activities eligible under the grant agreements are conducted by the Appraisal Foundation.

3. PROPERTY AND EQUIPMENT

Property and equipment are stated at cost. Depreciation and amortization is calculated on a straight-line basis over the estimated useful lives of the assets. Expenditures for individual assets costing less than \$5,000 and for maintenance and repairs are expensed as incurred.

The following table summarizes property and equipment balances as of September 30, 1995:

Classes of Fixed Assets	Service Life (Years)	Cost	Accumulated Depreciation	Net
Furniture	10	\$ 57,168	\$ 19,789	\$ 37,379
ADP Equipment	3	83,964	78,286	5,678
		<u>\$141,132</u>	<u>\$ 98,075</u>	<u>\$ 43,057</u>

4. BORROWINGS

Under Title XI of FIRREA, the Appraisal Subcommittee received a one-time payment of \$5,000,000 from the Department of the 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 will be repaid to the Treasury general fund. The financing agreement, as amended, provides for interest-free financing and does not provide for a specified repayment term. During fiscal years 1995 and 1994, the Appraisal Subcommittee made repayments to Treasury in the amounts of \$1,250,000 and \$750,000, respectively.

5. 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 .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 years 1995 and 1994 for the Civil Service Retirement System and the Federal Employees' Retirement System aggregated \$56,876 and \$47,989, respectively.

Although the Appraisal Subcommittee contributes a portion of pension benefits for its employees participating in the retirement plans and withholds the necessary payroll deductions from them,

it has no liability for future payments to employees under these programs and is not accountable for the assets of the 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.

6. APPRAISAL FOUNDATION GRANT

Title XI of FIRREA provides that amounts appropriated for or collected by the Appraisal Subcommittee shall 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 \$2,537,600 was expended through September 30, 1995. As of September 30, 1995, the Appraisal Subcommittee has an outstanding grant commitment of \$102,000 to the Foundation for the grant period ending December 31, 1995.

7. 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, 1998, with payments due quarterly, as billed by the FFIEC. Future minimum rental payments for the remaining life of the agreement are \$503,200.

Base rent expense, exclusive of office equipment charges, totaled \$145,230 and \$143,800 for the years ended September 30, 1995 and 1994, respectively.

In conducting its administrative operations, the Appraisal Subcommittee uses the services of various other Federal agencies. The two largest of these administrative service arrangements are with the U.S. Department of Housing and Urban Development (HUD) and the General Services Administration (GSA) for certain accounting and reporting functions, and the processing of payroll and related benefits, respectively. Operating expenses of the Appraisal Subcommittee for fiscal years 1995 and 1994 include approximately \$32,000 and \$33,300 for these services.

8. CONGRESSIONAL ACTIONS

Proposed banking reform legislation in the U.S. Congress has provisions that affect the Appraisal Subcommittee. The House Bill HR 1362, Section 224, would require that the Appraisal Subcommittee repay to the Secretary of Treasury the start-up funds authorized by Title XI by not later than September 30, 1998. The Subcommittee already has plans to comply with this proposal. The Senate Bill S 650, Section 212, would "consolidate" the functions of the Appraisal Subcommittee with those of the Federal Financial Institutions Examination Council. Among other things, S 650

would state that current Appraisal Subcommittee funds to be transferred to the Council and future fees received by the Subcommittee “shall not constitute appropriated funds.” If S 650 becomes law, it would make significant changes in the administration and operation of the Subcommittee.

* * * * *

Appendix B

Relevant Statutes

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 car-

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

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

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

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

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

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

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 requirement 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 purpose of the 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 purpose of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the

agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

SEC. 1120. Violations in obtaining and performing appraisals in federally related transactions [12 U.S.C. 3349]

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

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

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

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

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

SEC. 1121. Definitions [12 U.S.C. 3350]

For purposes of this title:

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

(2) *Appraisal Subcommittee; subcommittee.* The terms “Appraisal Subcommittee” and “subcommittee”

mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) *Council*. The term “Council” means the Federal Financial Institutions Examination 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 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 Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) *Financial institution*. The term “financial institution” means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

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

(9) *Foundation*.—The terms “Appraisal Foundation” and “Foundation” means the Appraisal Foundation

established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

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

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

(a) *Temporary practice*.

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

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

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

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

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

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

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

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

(e) *Other requirements.* A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

- (1) the assistant is under the direct supervision of a licensed or certified individual; and
- (2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(f) *Studies.*

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

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

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

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

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

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

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

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

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

(2) determines that the exception—

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

(B) is consistent with safety and soundness.

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

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

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

(2) explains how the exception—

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

(B) is consistent with safety and soundness.

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

* * *

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.