

APPRAISAL SUBCOMMITTEE

Federal Financial Institutions Examination Council

ANNUAL
REPORT
1997

Letter of Transmittal

June 4, 1998

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 1997 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, stylized 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”), 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 1997, the national program of appraisal regulation envisioned by Title XI marked its fifth 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, 1997, were \$1,568,330. This amount included \$611,432 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. The outstanding balance of the Treasury advance, on September 30, 1997, was \$500,000. The ASC will repay all of the advance by September 30, 1998, as required by Section 1108(c) of Title XI. The ASC's FY 1997 audited financial statements are presented in Appendix A.

The ASC continued to receive Registry submissions from all 50 States, plus the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands and Puerto Rico. At year-end, the Registry contained over 83,000 entries pertaining to more than 70,000 individual appraisers. During FY 1997, the ASC received Registry fees totaling \$2,048,164.

As in previous years, the ASC sent State agencies an off-site survey form entitled, *Annual Survey of State Appraiser Regulatory Agencies* ("Annual Survey"), 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 for the reporting year and to update the ASC on State activities since the last on-site review. Annual Surveys also are used to help

determine the priority of future on-site field reviews.

During 1997, the ASC continued its second cycle of on-site reviews of State agencies, with ASC staff visiting 16 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 second cycle has been 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 were identified, including inadequate enforcement and disciplinary activities, 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.

At its April 9, 1997 meeting, the ASC approved revised *Policy Statement 5: Temporary Practice* and *Policy Statement 6: Reciprocity*. The Policy Statements were published in the *Federal Register* on April 23, 1997, at 62 FR 19755, with a correction to Policy Statement 6 appearing on May 1, 1997, at 62 FR 23777. These Policy Statements implemented Section 315 of the Riegle Community Development and Regulatory Improvement Act of 1994 ("CDRIA"). The amendment added new language to Section 1122 of Title XI 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 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.” Revised Policy Statement 5 and new Policy Statement 6 are in Appendix B, which includes all ten ASC Policy Statements.

The ASC continued its major 1996 initiative to make the Registry more accurate, accessible and easy to use. By the end of 1997, the ASC successfully established a Web site on the Internet’s World Wide Web (www.asc.gov) and placed the Registry on the Web site.

When fully operational in early calendar year 1998, the new Registry will enable anyone 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 will enable anyone, in particular, any financial institution, to be notified automatically by Internet email each day about new revocations, suspensions, surrenders, and certificate/license expirations. 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. All of these services will be provided to the public at no direct cost. When completed, the Registry, among other things, should facilitate temporary practice and reciprocity, assist State agencies in enforcing their appraiser-related statutes and regulations and enable users of appraiser services to easily identify certified or licensed appraisers. In connection with

this initiative, the ASC approved a substantially revised *Policy Statement 8: National Registry of State Certified and Licensed Appraisers*. The revised Policy Statement is in Appendix B.

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) (West Supp. 1997).

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 \$647,160 to the Foundation in support of the activities of its board of directors and the Standards and Qualifications Boards and approved a supplemental 1997 request for \$61,575.

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 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.
- *Associate Director for Policy and Programs*—Assists in policy oversight and program analysis, development and implementation of Title XI. Monitors the requirements and standards developed by the States for certification and licensing of individuals qualified to perform appraisals in connection with federally related transactions. Maintains liaison with the Appraisal Foundation, appraisal organizations and Federal regulatory agencies. Prepares the program's fiscal year budget and operating plan and provides cost estimates for projected program activities.
- *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 renders legal advice with regard to statutes and other laws relating to the regulation of the appraisal industry and ASC operations.

Members of the ASC and their terms of service were:

- Chairman, Herbert S. Yolles, Director, Division of Risk Management, NCUA, July 1994 to present;
- Member, Diana L. Garmus, Director for Corporate Activities, OTS, September 1990 to present;
- Member, Rhoger H Pugh, Assistant Director, Division of Banking Supervision and Regulation, FRB, November 1992 to November 1997;
- Member, Virginia Gibbs, Senior Supervisory Financial Analyst, Division of Banking Supervision and Regulation, FRB, November 1997 to present;
- Member, Cary H. Hiner, Assistant Director, Office of Policy, Division of Supervision, FDIC, May 1996 to December 1997;
- Member, Jesse G. Snyder, Assistant Director for Planning and Program Development, Division of Supervision, FDIC, December 1997 to present;
- Member, P. Michael Yuenger, National Bank Examiner, OCC, April 1994 to June 1997;
- 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;
- Ronald W. Peppe, Associate Director for Policy and Programs;
- Marc L. Weinberg, General Counsel;
- Vicki A. Ledbetter, Appraisal Policy Manager;
- Linda K. Matthias, 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, reviewing information submitted by State agencies using the ASC's Annual Survey, 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. The ASC performed 16 on-site State reviews during 1997.

On-Site Monitoring Program

Each field review assesses every facet of a State's appraiser regulatory scheme. 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 ordinarily 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, problem areas remained. The most frequent problems occurred in:

- Enforcement—Complaints of appraiser misconduct were not expeditiously resolved; obvious violations of USPAP, State and/or Federal law were not addressed because they were

outside of the technical scope of the complaint as filed by the complainant; poor complaint administration resulted in inadequately documented files and inconsistent enforcement decisions; insufficient investigator training caused the dismissal of basic violations of USPAP and appraisal methodology; and serious disciplinary actions were not reported to the ASC and the National Registry under Title XI and ASC Policy Statement 9;

- Licensing and Certification—Amendments to State statutes and/or regulations were not in place to implement the AQB's more stringent education and experience requirements for certified real estate appraisers effective January 1, 1998; and State temporary practice statutes and/or regulations imposed excessive fees or burdensome practices contrary to Title XI and ASC Policy Statement 5; and
- Operations—Formal State agency decision-maker meetings were frequently canceled due to the lack of a quorum because of slow gubernatorial appointments to the decisionmaking body or a lack of interest or commitment by members of that body; and inadequate funds were made available to the State agency for appraisal-related training, educational purposes and other important functions.

The ASC sent field review letters to each State agency, detailing each ASC concern. Appropriate follow-up actions, ranging from informal discussions, written communications to additional on-site meetings, were taken throughout the year. The resulting changes continued to improve State appraiser regulatory programs.

Off-site Monitoring Program

In addition to the on-site field reviews, the off-site review of Annual Survey information was used to monitor each State agency's compliance with

Title XI. The ASC staff reviewed each State's responses to the Annual Survey.

The Annual Survey information indicated wide-ranging differences among State appraiser regulatory programs. Some States had a large number of complaints and enforcement actions when compared to their populations of State certified and licensed appraisers, while others had very few. A minority of States had education and experience requirements for appraiser certification that were substantially higher than the criteria established

by the AQB. While most State programs had sufficient resources to perform their Title XI-related responsibilities, several programs appeared to be significantly underfunded. Finally, even though most States have adopted the most current version of USPAP by incorporating it by reference in their State statutes or regulations, several States have not, at times resulting in the enforcement of outdated standards. The ASC intends to continue to work with State agencies to resolve differences which hinder the overall effectiveness of the State appraiser regulatory agency.

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Activities of the Federal Financial Institutions Regulatory Agencies

During 1997, three Agencies changed their ASC members. OCC appointed David D. Gibbons, Deputy Controller for Credit Risk, replacing P. Michael Yuenger. The FDIC appointed Jesse G. Snyder, Assistant Director for Planning and Program Development, Division of Supervision, replacing Cary H. Hiner. And, the FRB appointed Virginia Gibbs, Senior Supervisory Financial Analyst, Division of Banking Supervision and Regulation, replacing Rhoger H Pugh.

The Agencies provided speakers for conferences sponsored by the Association of Appraiser Regulatory Officials (“AARO”). AARO, an organization created by State agencies, was established in 1991 to improve the administration, coordination and enforcement of real estate appraisal laws and programs in member jurisdictions.

NCUA and FRB proposed amendments to their respective appraisal regulations. On August 1, 1997, NCUA published in the *Federal Register* proposals to amend its member business loan rule and related rules. See 62 F.R. 41313. Among other things, NCUA proposed authorizing its regional

directors to waive the business loan rule’s appraisal requirement, upon request, considering: (1) the reason for the waiver of the appraisal requirement; (2) the credit union’s written business loan policies; (3) an analysis of the credit union’s prior experience making member business loans; and (4) written documentation provided by the credit union which may indicate present value (such as tax assessments and market analysis).

On December 9, 1997, FRB published in the *Federal Register* a proposed amendment to subpart G of the FRB’s Regulation Y, *Appraisal Standards for Federally Related Transactions*, to exempt any transaction involving underwriting or dealing of mortgage-backed securities from the FRB’s appraisal requirements. 62 F.R. 64997. The proposal would permit a bank holding company or a nonbank subsidiary of a bank holding company 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 charged by Title XI with the responsibility of establishing, improving and promoting minimum uniform appraisal standards and appraiser qualifications criteria. The Foundation serves as the parent organization for two independent boards established to accomplish this mission: 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 copies of USPAP upon request and provides copies of the Criteria at no charge. The Foundation also provides every licensed and certified appraiser with a complimentary quarterly newsletter. This newsletter highlights the Boards’ activities; notes any changes, modifications or clarifications respecting USPAP or the Criteria; and invites 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 1997.

The Appraisal Foundation Board of Trustees

The Foundation is headed by a 33-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 1997, Karl Urda was Chairman of the Trustees, and Lloyd Hanford was Vice Chairman.

The Trustees held two meetings in 1997. The Trustees adopted two changes to the Foundation’s by-laws. The first change amended the bylaws to require that the ASB and AQB have “at least five and no more than seven members.” The bylaws previously limited their size to five members. The second change reduces the number of At-Large Trustees from 14 to 12 in 1999, and from 12 to 10 in 2000. These reductions will accommodate two new elected representatives from each of the Foundation’s advisory councils.

The Trustees adopted a preliminary proposal to sponsor a working group to determine whether the Foundation should establish uniform State real estate appraiser examinations. An increasing number of State agencies have been experiencing problems obtaining the services of AQB-approved examination providers.

The Trustees elected its officers and appointed new ASB and AQB members. The 1998 Trustee officers are: Lloyd Hanford, Chairman; James VanDerWerff, Vice Chair; Eugene Sussli, Secretary; J. Michael Hill, Assistant Secretary; Norman Goldberg, Treasurer; and John Fiene, Assistant Treasurer. Four persons were elected to serve three-year terms as At-Large Trustees: Jay Fishman, David Lang, Mary McCarter, and Alvin “Butch” Nelson. The Trustees also appointed Scott Williams as AQB Chair and Arlen Mills as AQB Vice Chair. Charles Moore was appointed to the AQB. The Trustees appointed Tim Leberman and Kenneth Kaiser, respectively, as ASB Chair and Vice Chair, with their terms beginning January 1, 1998. Lori Van Court and David Snook were reappointed to the ASB for three-year terms.

The Appraiser Qualifications Board

The AQB addressed the following issues during the two meetings held in 1997:

Real Property Appraiser Qualifications Criteria Booklet

For the first time, the AQB printed and distributed to State and Federal regulators, appraisal organizations, educational providers, and other interested parties a bound booklet of the revised Real Property Appraiser Qualifications Criteria containing all previously issued interpretations and clarifications. It also included portions of the Criteria that will become effective on January 1, 1998.

Proposed Personal Property Appraiser Qualifications Criteria

An Exposure Draft of the Personal Property Appraiser Qualifications Criteria was released for public comment on May 2, 1997. Compliance with the final minimum criteria for personal property appraisers will be voluntary.

Real Property Appraisal Body of Knowledge

The AQB adopted the AQB Real Property Appraisal Body of Knowledge. This document is used by the AQB in the real estate appraiser examination approval process and in decisions about the need to adjust or adopt new appraiser qualification criteria in the future.

Course Approval Program

The AQB approved five courses under its revamped Course Approval Program. The program is intended to assist both 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.

Continuing Education Diagnostic Examination

The AQB ceased work on a Continuing Education Diagnostic Examination due to lack of interest by potential users.

The Appraisal Standards Board

During its four meetings in 1997, the ASB took the following actions:

Uniform Standards of Professional Appraisal Practice

The Foundation published the 1998 USPAP, its seventh edition, and made it available to all requesters. The 1998 USPAP was effective on January 1, 1998.

USPAP Revisions

The ASB proposed USPAP revisions to improve its understandability and enforceability. Based on a report submitted by the ASB's Understandability and Enforceability Task Force and public testimony, the ASB drafted a substantially revised version of USPAP, which was released for comment in December 1997.

Updated Guide For USPAP Instructors

The ASB updated its *Guide for Instructors Teaching Courses or Seminars on the USPAP* to reflect revisions and additions to USPAP adopted in 1997. The Guide was effective January 1, 1998. The Guide is intended to ensure that instructors teach USPAP in a uniform and consistent manner.

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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 1997, the ASC authorized repayment of \$1 million to Treasury, reducing the remaining Treasury advance to \$500,000, which, under Section 1108(c) of Title XI, must be repaid fully 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 1997 totaled \$2,048,164.

Attached as Appendix A are the ASC's FY 1997 audited financial statements. The audited financial statements show that the ASC's financial position improved since last year's audit. While revenue and asset amounts declined, the fund balance increased over last year's positive amount and liabilities decreased significantly. In general, there has been a significant increase 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.

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Appendix A—Financial Statements

APPRAISAL SUBCOMMITTEE

**Financial Statements for the Years Ended September
30, 1997 and 1996, and Independent Auditors' Report**



INDEPENDENT AUDITORS' REPORT

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

Summary

We have audited the accompanying statements of financial position of the Appraisal Subcommittee as of September 30, 1997 and 1996, and the related statements of operations and changes in net position and of cash flows for the years then ended.

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

We noted:

- No matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses; 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 aforementioned financial statements present fairly, in all material respects, the financial position of the Appraisal Subcommittee at September 30, 1997 and 1996, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

Report on Internal Control Over Financial Reporting

The management of the Appraisal Subcommittee is responsible for establishing and maintaining effective internal control over financial reporting of the Appraisal Subcommittee. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies and procedures. The objectives of internal control over financial reporting 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 internal control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the internal control 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, 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 specific 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.

We developed certain recommendations concerning matters relating to the internal control over financial reporting and its operation that we have reported to the management of the Appraisal Subcommittee in a separate letter dated January 16, 1998.

Compliance with Certain Provisions of Laws and Regulations

Compliance with certain provisions of laws, regulations, and contracts applicable to the Appraisal Subcommittee is 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, 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 herein under *Government Auditing Standards*.

Management's Responsibilities

Management has responsibility for:

- Preparing the financial statements in accordance with generally accepted accounting principles;
- Establishing and maintaining effective internal control over financial reporting; 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 *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 Auditors' Responsibilities

Our responsibility is to express an opinion on the financial statements based on our audits. Accordingly, we planned and performed our audits 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 Collection Act, as amended by the Debt Collection Act of 1982
 - Prompt Payment Act of 1982
 - 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
- Performed other procedures as we considered necessary in the circumstances.

Our audits were conducted 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. We believe that our audits provide 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 16, 1998

APPRAISAL SUBCOMMITTEE

STATEMENTS OF FINANCIAL POSITION SEPTEMBER 30, 1997 AND 1996

ASSETS	1997	1996
FUND BALANCES WITH TREASURY	\$2,904,783	\$4,609,091
DUE FROM HUD (Note 7)	-	106,471
PROPERTY AND EQUIPMENT - Net (Note 3)	72,248	31,671
PREPAID RENT	<u>-</u>	<u>1,305</u>
TOTAL ASSETS	<u>\$2,977,031</u>	<u>\$4,748,538</u>
 LIABILITIES AND NET POSITION		
NON-FEDERAL LIABILITIES:		
Unearned revenue	\$592,770	\$516,215
Accrued accounts payable	274,753	140,965
Accrued annual leave (Note 2)	33,556	22,477
Accrued payroll and benefits	28,723	2,263
Accrued travel payable	<u>1,477</u>	<u>700</u>
Total nonfederal liabilities	931,279	682,620
FEDERAL LIABILITIES:		
Borrowings from Treasury (Note 4)	<u>500,000</u>	<u>3,000,000</u>
Total liabilities	1,431,279	3,682,620
NET POSITION	<u>1,545,752</u>	<u>1,065,918</u>
TOTAL LIABILITIES AND NET POSITION	<u>\$2,977,031</u>	<u>\$4,748,538</u>

See notes to financial statements.

APPRAISAL SUBCOMMITTEE

STATEMENTS OF OPERATIONS AND CHANGES IN NET POSITION YEARS ENDED SEPTEMBER 30, 1997 AND 1996

	1997	1996
REVENUE:		
Revenue from services provided:		
Appraiser fees (Note 2)	\$2,046,544	\$2,185,145
Other	<u>1,620</u>	<u>802</u>
Total revenue	<u>2,048,164</u>	<u>2,185,947</u>
EXPENSES:		
Operating Expenses:		
Personnel compensation and benefits (Note 5)	632,899	561,828
Rent, communications, and utilities (Note 7)	173,952	165,896
Contracted services	77,435	86,254
Travel and transportation	36,328	13,527
Printing and reproduction	5,286	10,543
Depreciation and amortization	12,634	11,386
Supplies and materials	11,753	5,672
Other expenses	<u>6,611</u>	<u>9,628</u>
Total operating expenses	956,898	864,734
Appraisal Foundation grant (Note 6)	<u>611,432</u>	<u>559,705</u>
Total expenses	<u>1,568,330</u>	<u>1,424,439</u>
EXCESS OF REVENUE OVER EXPENSES	479,834	761,508
NET POSITION, BEGINNING BALANCE	<u>1,065,918</u>	<u>304,410</u>
NET POSITION, ENDING BALANCE	<u>\$1,545,752</u>	<u>\$1,065,918</u>

See notes to financial statements.

APPRAISAL SUBCOMMITTEE

STATEMENTS OF CASH FLOWS YEARS ENDED SEPTEMBER 30, 1997 AND 1996

	1997	1996
CASH FLOWS FROM OPERATING ACTIVITIES:		
Excess of revenue over expenses	\$479,834	\$761,508
Adjustments to reconcile excess of revenues over expenses to net cash used by operating activities:		
Decrease (increase) in due from HUD	106,471	(106,471)
Decrease (increase) in prepaid rent	1,305	(1,305)
Increase (decrease) in non-federal liabilities	248,659	(107,169)
Depreciation and amortization	<u>12,634</u>	<u>11,386</u>
Net cash from operating activities	848,903	557,949
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property and equipment	(53,211)	-
CASH FLOWS FROM FINANCING ACTIVITIES:		
Repayment of borrowings from Treasury	<u>(2,500,000)</u>	<u>-</u>
NET CASH PROVIDED BY (USED IN) OPERATING, INVESTING, AND FINANCING ACTIVITIES	(1,704,308)	557,949
FUND BALANCES WITH TREASURY, BEGINNING	<u>4,609,091</u>	<u>4,051,142</u>
FUND BALANCES WITH TREASURY, ENDING	<u>\$2,904,783</u>	<u>\$4,609,091</u>

See notes to financial statements.

APPRAISAL SUBCOMMITTEE

NOTES TO FINANCIAL STATEMENTS YEARS ENDED SEPTEMBER 30, 1997 AND 1996

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 \$2,500 and for maintenance and repairs are expensed as incurred.

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

Classes of Fixed Assets	Service Life (Years)	1997		
		Cost	Accumulated Depreciation	Net
Furniture	10	\$59,148	\$31,358	\$27,790
ADP Equipment	3	<u>135,034</u>	<u>90,576</u>	<u>44,458</u>
		<u>\$194,182</u>	<u>\$121,934</u>	<u>\$72,248</u>
Classes of Fixed Assets	Service Life (Years)	1996		
		Cost	Accumulated Depreciation	Net
Furniture	10	\$57,168	\$(25,502)	\$31,666
ADP Equipment	3	83,964	(83,959)	5
		<u>\$141,132</u>	<u>\$(109,461)</u>	<u>\$31,671</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 year 1997, the Appraisal Subcommittee made repayments to Treasury in the amount of \$2,500,000.

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 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 years 1997 and 1996 for the Civil Service Retirement System and the Federal Employees' Retirement System aggregated approximately \$43,000 and \$46,000, 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 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 approximately \$3,638,500 was expended through September 30, 1997. As of September 30, 1997, the Appraisal Subcommittee has an outstanding grant commitment of approximately \$88,100 to the Foundation for the grant period ended December 31, 1997.

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 approximately \$135,000.

Base rent expense, exclusive of office equipment charges, totaled approximately \$135,500 and \$152,900 for the years ended September 30, 1997 and 1996, respectively.

In conducting its administrative operations, the Appraisal Subcommittee uses the services of various other Federal agencies. The largest of the administrative service arrangements are with the U.S. General Services Administration (GSA) for certain accounting and reporting functions, and processing of payroll and related benefits. Operating expenses of the Appraisal Subcommittee for fiscal years 1997 and 1996 include approximately \$20,800 and \$26,200 for these services.

Due from HUD - During the first quarter of the year ended September 30, 1996, the Appraisal Subcommittee had an agreement with the U.S. Department of Housing and Urban Development (HUD) to perform the accounting and reporting functions mentioned above. In performing these functions, HUD charged the Appraisal Subcommittee approximately \$106,500 in error, thereby reducing the Appraisal Subcommittee Fund Balance with Treasury. This amount was repaid in full during 1997.

* * * * *

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

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.

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. Unless an appraiser is recorded in the Registry, that individual 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 must remit to the ASC the total amount of the multiple year National Registry fees. If an appraiser, for any reason, becomes uncertified or unlicensed, the appraiser is entitled to a refund consisting of any remaining full-year portions of the appraiser's multiple year fees. When the ASC receives proper documentation of this loss in status from a State, the ASC will transmit those fees promptly to the State for refund to the appraiser.

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 available to State agencies outlining each State's reciprocity requirements and interstate agreements as well

as the features of existing appraiser trainee/apprentice/intern programs. The ASC is urging: (1) each State to maintain with the ASC a listing of all reciprocity agreements with other States (together with copies of such agreements), and (2) each State with a trainee/apprentice/intern program to maintain with the ASC a current summary of the program's requirements and features. Information regarding reciprocity, trainee programs, and other issues, such as Temporary Practice provisions, is maintained on the ASC Web site.

Statement 10: Enforcement

A. The Scope of State Agency Enforcement Programs

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

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

B. Audit of Experience and Education Submissions

While the ASC has no preference for any specific methodology, State agencies, at a minimum, should have a reliable means of validating both education and experience credit claimed for certification or licensing. The ASC believes the lack of routine verification procedures is both an invitation to potential fraud and a threat to the integrity of a State's appraiser regulatory program.

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 per-

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

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

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

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

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

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

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

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

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

(b) *Use of amounts appropriated or collected.* Amounts

appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

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

(2) to support its activities under this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) the effect on low-income housing.

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

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

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who per-

forms 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. Subsequent to such disposition, the subcommittee or the

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

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

[12 U.S.C. 3349]

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

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

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

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

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

SEC. 1121. Definitions

[12 U.S.C. 3350]

For purposes of this title:

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

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

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

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

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

(B) requires the services of an appraiser.

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

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

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

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

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

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

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

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

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

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

(a) *Temporary practice.*

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

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

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

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

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

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

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

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

(e) *Other requirements.* A corporation, partnership, or other business entity may provide appraisal services in 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 exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

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

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

(2) explains how the exception—

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

(B) is consistent with safety and soundness.

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

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(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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