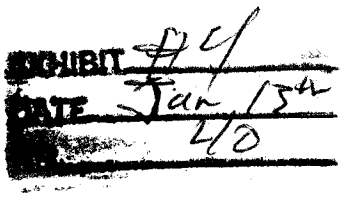

Appraisal Subcommittee

Federal Financial Institutions Examination Council

Appraisal Subcommittee Policy Statements

Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers

October 2008

1401 H Street NW, Suite 760, Washington, DC 20005

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Introduction

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, (FIRREA) entitled the "Real Estate Appraisal Reform Amendments," established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC). The ASC consists of representatives appointed by the heads of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration ("Federal financial institutions regulatory agencies" or "Agencies") and the Department of Housing and Urban Development.

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

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

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.

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 Policy Statement 10G (October 1, 2008) and (5) reflect non-substantive, stylistic edits to the earlier version.

Statement 1: State Regulatory Structure and Independence of Functions

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

A State agency may be headed by a board, commission or individual. The organizational structure should provide maximum insulation for the State agency from the influence of any industry or organization whose members have a direct or indirect financial interest in the outcome of the agency's decisions.

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

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

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

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

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

Members to comply with the following general principles:

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

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

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

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

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[2] These principles are based on 5 CFR § 2635.101(a) and (b), entitled Basic obligation of public service.

A State agency should exercise due diligence to identify and select a private entity. As part of this process, the State agency should determine its needs and objectives and convey them to prospective private entities. In selecting a private entity, the State agency should perform sufficient analysis to determine that the entity is competent and experienced in providing the activities that the State plans to outsource. This analysis should include an evaluation of an entity's ability, both operationally and financially, to meet the State agency's needs.

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

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

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

Statement 2: Appraiser Classifications

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

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

Some States have specifically included in their statutes or regulations restatements of the requirements set

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

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

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

A. State Certified Appraisers

Title XI generally requires a State certified general appraiser to be a person who: (1) meets at least the minimum AQB criteria for "Certified General Real Property Appraiser"; and (2) passes a State administered examination issued or endorsed by the AQB. While Title XI does not specifically mention the State Certified Residential Appraiser designation, it was adopted by the AQB, and the ASC has recognized it. A State certified residential appraiser is a person who: (1) meets at least the minimum AQB criteria for "Certified Residential Real Property Appraiser"; and (2) passes a State administered examination issued or endorsed by the AQB. The AQB occasionally has amended both sets of criteria since their adoption in 1990, with the most recent changes taking effect on January 1, 2008. 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 202-347-7722 or through U.S. mail at 1155 15th Street N.W., Suite 1111 Washington, D.C. 20005.

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[3].

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

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

yet adopted the criteria to do so.

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 Frequently Asked Questions, and, in general, should defer to the ASB, and, where appropriate, the Agencies, in those matters.

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

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

Statement 4: Written Appraisal Reports

Title XI specifically mandates that all appraisals performed in connection with federally related transactions be in written form. The written appraisal must adequately explain the certified or licensed appraiser's opinion of the property's value as of a specific date with a description of the property and presentation of the relevant market information with supporting analysis. This requirement has been incorporated into other Federal statutes and regulations, in particular, the Agencies' regulations.

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

Title XI requires a State agency to recognize on a temporary basis the certification or license of an appraiser from another State provided: (1) the property to be appraised is part of a federally related transaction; (2) the appraiser's business is of a temporary nature; and (3) the appraiser registers with the State appraiser regulatory agency in the State of temporary practice. Thus, a certified or licensed appraiser from State A, who has an assignment concerning a federally related transaction in State B, has a statutory right to enter State B, register with the State agency in State B and perform the assignment. Title XI does not require State B to offer temporary practice to persons who are not certified or licensed appraisers, including appraiser assistants not under the direct supervision of an appraiser certified or licensed in State

A. An out-of-State certified or licensed appraiser should register for temporary practice before beginning to perform an appraisal assignment in connection with a federally related transaction.

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

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

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

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

- Delaying the issuance of a written "letter of good standing" or similar document for more than five business days after the home State agency's receipt of the related request; and
- Failing to take appropriate disciplinary action when one of its certified or licensed appraisers is disciplined by another State agency for unethical, incompetent or fraudulent practices under a temporary practice permit.

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

An out-of-State certified or licensed appraiser must comply with the host State's real estate appraisal statutes and regulations. Each appraiser who receives temporary practice registration is subject to the State's full regulatory jurisdiction and is governed by the State's statutes and regulations respecting

appraiser certification or licensing. However, the out-of-State appraiser should be treated like any other appraiser within the State who wishes to perform an appraisal in a federally related transaction.

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

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

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

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

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

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

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

Statement 7: Prohibition Against Discrimination

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

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

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

Statement 8: National Registry of State Certified and Licensed Appraisers

A. General Roster and Registry Fee Requirements

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

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

B. Description of National Registry

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

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

C. Registry Fee Policies

Each State must remit to the ASC a National Registry fee on an annual basis for each State certified or State licensed appraiser listed on the National Registry. The annual fee for each certified or licensed appraiser is $25. Fees will not be prorated or refunds granted for partial year registrations. If a State has not transmitted an appraiser's annual fee to the ASC, that individual is not recorded in the Registry and is not eligible to perform appraisals in connection with federally related transactions. If a State issues multiple-year certifications and licenses and collects multiple-year fees, the State may choose to remit to the ASC the total amount of the multiple year National Registry fees. The ASC can only record individuals on the National Registry for the number of years paid[4]. 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. [Paragraph amended January 13, 1999.]

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

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

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

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 website (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 website 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
5301 Shawnee Road
Alexandria, VA, 22312
Telephone: (703) 605-6050
Fax: (703) 605-6900

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 website 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 website.

Statement 10: Enforcement

A. The Scope of State Agency Enforcement Programs

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

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

B. Audit of Experience and Education Submissions

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

C. Exemptions

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

D. Supervising Uncertified and Unlicensed Appraiser Assistants

Title XI provides that an individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if the assistant is under the direct supervision of a licensed or certified appraiser and the final appraisal is approved and signed by that appraiser. The ASC believes that this

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

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

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

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

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

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

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

1. Background—Most States require applicants/appraisers to submit documentation supporting experience and education claimed to qualify for or renew a credential. These States review the documentation before determining whether to issue or renew the credential. In the ASC's review of State appraiser regulatory programs, the ASC has found that some States rely on affidavits (i.e., sworn statements or affirmations) from applicants/appraisers stating that they have obtained the experience and/or education required under State and/or Federal law to obtain their certificates or licenses initially (i.e., qualifying education or experience) or to renew their credentials (i.e., continuing education). In

States accepting affidavits, the applicant/appraiser usually does not submit documentation to support the claimed experience or education. The States accept the applicant/appraiser's affirmation that he or she has obtained the necessary experience or education. It is critical that States relying on such affidavits have effective procedures to verify that the appraiser has successfully met Federal and State law requirements.

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

2. **Experience**—States cannot accept experience-related affidavits from applicants for certification (i.e., Certified Residential or Certified General classifications). If a State accepts experience-related affidavits from applicants for licensure (i.e., any non-certified classification, such as Licensed or Trainee), upon the appraiser's application to upgrade to a certified classification, the State must require experience documentation to support the appraiser's qualification for the certified classification, not just the incremental amount of experience required to move from the non-certified to the Certified classification. For example, assume that a State accepts an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the Licensed classification. Subsequently, this appraiser applies to upgrade to the Certified Residential classification. The State must require documentation to support the full experience hours required for the Certified Residential classification, not just the difference in hours between the two classifications.

3. **Qualifying Education for Initial Certification**—States cannot accept education-related affidavits from applicants for initial certification without verifying that the applicant's claimed education courses are acceptable under AQB Criteria, and that the applicant has successfully completed the courses. States must ensure that applicants for certification meet AQB Criteria. Also, we recommend that States ensure that applicants for non-certified classifications meet the State's initial education requirements by reviewing each education course.

4. **Qualifying Education to Upgrade to Certified Classifications**—If a State accepts education-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require documentation to support the appraiser's educational qualification for the certified classification, not just the incremental amount of education required to move from the non-certified to the Certified classification. (See paragraph two above for an example of a similar upgrading situation.)

5. **Continuing Education**—States may accept education-related affidavits from certified appraisers for credential renewal. Each State accepting affidavits for certified appraiser credential renewals must establish a reliable means of validating the affidavits, i.e., validation procedures.

a. **Validation Procedures**—For the purposes of this Policy Statement, validation procedures need to achieve at least two goals. First, the procedures must include a prompt post-approval audit of an adequate number of affidavits to have an acceptable chance of identifying appraisers who fail to comply with Federal and State law. The sample must include a reasonable representation of the appraiser population being sampled. Second, the procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. It is necessary to achieve both goals to have reliable validation procedures.

b. **Credential Renewal Intervals**—States renew appraiser credentials at varying intervals. Some States schedule credentials to expire on a single date, e.g., December 31 each year, every other year, or every third year. Other States schedule expirations for month end or quarter end. Still other States

establish expirations based on the dates the credentials are issued and can have expirations almost every day of the year. Each approach presents its own challenges to the State.

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

c. Auditing and Enforcement Requirements—The State must audit the continuing education-related affidavit for each certified appraiser selected in the sampling procedure. The following minimum standards apply to these audits:

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

d. List of Education Courses—To promote accountability and deter fraud, we encourage States that accept continuing education-related affidavits for certified appraisers to require that the appraiser also submit a listing of courses to support the affidavit.

e. Documentation—To ensure that the ASC can determine State compliance with these standards, a State needs to maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

G. Validation of Experience Documentation for AQB Criteria Conformance and USPAP Compliance *[Section added 8/9/07; amended with effective date of 10/1/08.]*

The following discussion provides guidance regarding how State agencies can ensure that applicants for certification and licensure have the necessary experience to perform appraisals in connection with Federally related transactions and real estate related financial transactions that require the services of State licensed or certified real estate appraisers under Federal law.

1. Validation of Qualifying Experience and Proper Use of Experience Logs—Most States require applicants for licensure or certification to submit an experience log that lists, with some specificity, each of the appraisals claimed for experience credit. Reviewing experience logs is only the first step in evaluating an applicant's experience claims. States, in some reliable manner, must validate that the experience listed on the log actually exists. Therefore, it is necessary that each entry on an experience log

contains sufficient information to enable a State agency to validate the existence of the appraisal and to perform its duty to determine whether the applicant is capable of performing USPAP-compliant work.

States need to review a representative sample of the applicant's work product. For example, if the experience log for an applicant for the certified residential classification included both residential and non-residential assignments, the State must review a sampling of non-residential reports, in addition to the applicant's residential work. Similarly, if the experience log of an applicant for the certified general classification included both residential and non-residential assignments the State must review a sampling of the residential reports, in addition to the applicant's non-residential work.

2. Determinations of USPAP Compliance—Generally, for appraisal experience to be acceptable under AQB criteria, that experience must be USPAP-compliant. Appraisals, other than mass appraisals and tax assessment/ad valorem appraisals, must comply with USPAP Standards 1 and 2. Mass appraisals and tax assessment/ad valorem appraisals must comply with USPAP Standard 6. Therefore, States, under Title XI and the AQB's certification criteria, must determine, by some reasonable method, whether applicants are capable of performing appraisals that are USPAP compliant.

The only acceptable method of making this determination is by reviewing appraisal work product for each applicant. For most States, the most reasonable approach to making this determination would be to review specific work products and/or to require the applicant to perform appraisals of specified properties and prepare corresponding appraisal reports (e.g., demonstration reports). It is important to note that the State agency must select the work products to be reviewed. Allowing applicants to make the selection would significantly reduce the reliability of any validation approach. States must exercise due diligence in determining whether submitted experience is USPAP-compliant. States are free to tailor their methods of making this determination to fit their unique needs. The ASC will review each State's method on a case-by-case basis and determine whether that method is acceptable for Title XI compliance.

3. Determinations of Experience, Experience Hours and Time Periods—The experience hours and time period must comply with that prescribed by the AQB Real Property Appraiser Qualification Criteria for the credential. When measuring the beginning and ending of the experience period under AQB criteria (currently 24 and 30 months for certified residential and certified general, respectively), States need to review each appraiser's experience log (or other documentation) and note the dates of the first and last acceptable appraisal activities performed by the applicant. Then, the State needs to calculate the time period spanned between those appraisal activities. This span of time must comply with the AOB experience criteria.

4. Applicability to Licensed Appraisers—To reduce confusion and administrative inefficiencies, the ASC strongly encourages States to treat experience claims of applicants for licensure in the same manner as those submitted by applicants for certification.

5. Supporting Documentation—To ensure that the ASC can determine whether the State is appropriately validating experience documentation for AQB criteria conformance and USPAP compliance, a State needs to maintain adequate documentation to support its validation method or methods. The State should maintain information identifying each appraisal report reviewed by the State, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence exchanged with the applicant regarding the appraisal submitted. Documentation that should be retained for approved alternative methods of verification will be determined on a case-by-case

basis. The supporting documentation may be discarded upon the completion of the first ASC field review performed after the credential issuance or denial for that applicant.