

### Description of FDIC DFAST-14A Counterparty Credit Risk/CVA Template

The CCR schedule collects, on various worksheets, data to identify credit valuation adjustment (CVA), exposures, and CVA sensitivities for the respondent covered bank's top counterparties along a number of dimensions, including current CVA, stressed CVA, net current exposure, and gross current exposure. Covered banks with total consolidated assets of \$50 billion or more also must submit aggregate CVA, exposures, and CVA sensitivities by ratings categories. The *Notes to the CCR Schedule worksheet* allows respondent covered banks to voluntarily submit additional information to provide clarity to the portfolio. Covered banks with total consolidated assets of \$50 billion or more are required to report results under two scenarios (adverse, severely adverse) and two specifications (Covered Bank, FDIC) to capture Expected Exposure profiles.

Completion of the Counterparty Credit Risk/CVA schedule would be required only for those banks subject to the market shock provided by the FDIC.

### Description of FDIC DFAST-14A Basel III Template

The Basel III & Dodd-Frank schedule collects projections of Tier 1 Common Equity, Tier 1 Capital, Risk-Weighted Assets (RWA), and Leverage Exposures (along with granular components of those elements) for each quarter of the planning horizon for the stress test under baseline, adverse and severely adverse scenarios, based on the Basel III framework promulgated by the Basel Committee on Bank Supervision. Covered banks with total consolidated assets of \$50 billion or more also are required to include data on the projected impact of any significant actions planned in response to Basel III and the Dodd-Frank Act (for example, asset sales, asset winddowns, and data collection and modeling enhancements).

### Description of FDIC DFAST-14A Company Variables Template

To conduct the stress test required under this rule, a respondent covered bank may need to project additional economic and financial variables to estimate losses or revenues for some or all of its portfolios. In such a case, the covered bank is required to complete the DFAST-14A Company Variables schedule for each scenario where such additional variables are used to conduct the stress test. Each scenario worksheet collects the variable name (matching that reported on the Scenario Variable

Definitions worksheet), the actual value of the variable during the third quarter of the reporting year, and the projected value of the variable for nine future quarters.

### Description of Supporting Documentation

Covered banks with total consolidated assets of \$50 billion or more must submit clear documentation in support of the projections included in the worksheets to support efficient and timely review of annual stress test results by the FDIC. The supporting documentation should be submitted electronically and is not expected to be reported in the workbooks used for required data reporting. This supporting documentation must clearly describe the methodology used to produce the stress test projections, and must include how the macroeconomic factors were translated into a covered bank's projections, as well as technical details of any underlying statistical methods used. Where company-specific assumptions are made that differ from the broad macro-economic assumptions incorporated in stress scenarios provided by the FDIC, the documentation must also describe such assumptions and how those assumptions relate to reported projections. Where historical relationships are relied upon, the respondent covered banks must describe the historical data and provide the basis for the expectation that these relationships would be maintained in each scenario, particularly under adverse and severely adverse conditions.

*Type of Review:* New collection.

*Affected Public:* State nonmember banks and state savings associations supervised by the FDIC with total consolidated assets of \$50 billion or more.

*Estimated Number of Respondents:* 4  
*Estimated Time per Response:* 1,040 hours.

*Estimated Total Annual Burden:* 4,160 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the FDIC, including whether the information has practical utility;

(b) The accuracy of the FDIC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology;

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information; and

(f) The ability of FDIC-supervised banks and thrifts with assets greater than \$50 billion to provide the requested information to the FDIC by January, 2013.

Dated at Washington, DC, this 23rd day of August 2012.

Federal Deposit Insurance Corporation

Valerie J. Best,

Assistant Executive Secretary.

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## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS12-16]

### Appraisal Subcommittee; Proposed Policy Statements

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council

**ACTION:** Proposed policy statements and request for comments.

**SUMMARY:** The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council requests public comment on a proposal to revise ASC Policy Statements (proposed Policy Statements). The proposed Policy Statements provide guidance to ensure State appraiser regulatory programs (Program)<sup>1</sup> comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended. The proposed Policy Statements would supersede the current ASC Policy Statements.

**DATES:** Comments must be received on or before October 29, 2012.

**ADDRESSES:** You may submit comments, identified by any of the following methods:

<sup>1</sup> The 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands, have State appraiser certifying and licensing agencies with Programs monitored by the ASC through the Compliance Review process.

• *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *E-Mail*: [webmaster@asc.gov](mailto:webmaster@asc.gov). Include the docket number in the subject line of the message.

• *Fax*: (202) 289-4101. Include docket number on fax cover sheet.

• *Mail*: Address to Appraisal Subcommittee, Attn Lori Schuster, 1401 H Street NW., Suite 760, Washington, DC 20005.

All public comments will be made available on the ASC's Web site at <http://www.asc.gov> (follow link in "What's New") as submitted, unless modified for technical reasons.

Accordingly, comments will not be edited to remove any personal identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** James R. Park, Executive Director, at (202) 595-7575, or Alice M. Ritter, General Counsel, at (202) 595-7577, via Internet email at [jim@asc.gov](mailto:jim@asc.gov) and [alice@asc.gov](mailto:alice@asc.gov), respectively, or by U.S. Mail at Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI), established the ASC.<sup>2</sup> The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions.<sup>3</sup> Pursuant to Title XI, the ASC performs periodic Compliance Reviews of each State's Program to:

- Determine its compliance, or lack thereof, with Title XI, and
- Assess its implementation of the *Real Property Appraiser Qualification Criteria* (AQB Criteria), as adopted by the Appraiser Qualifications Board (AQB).

The ASC originally adopted the Policy Statements in 1993. In 1997, the ASC added Policy Statements governing temporary practice and reciprocity.

<sup>2</sup> The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration). The other two members are designated by the heads of the Department of Housing and Urban Development and the Federal Housing Finance Agency.

<sup>3</sup> Refers to any real estate related financial transaction which: (a) a federal financial institutions regulatory agency engages in, contracts for, or regulates; and (b) requires the services of an appraiser. (See Title XI § 1121 (4), 12 U.S.C. 3350.)

Since 1997, the Policy Statements have remained largely unchanged with the exception of amendments made by the ASC in 2008 to Policy Statement 10, *Enforcement*. Two recent occurrences necessitated revision of the Policy Statements:

1. Passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act); and
2. ASC implementation of its revised Compliance Review process in 2009.

States have already begun the process of implementing numerous statutory changes brought about by the Dodd-Frank Act.<sup>4</sup> The proposed Policy Statements reflect both Dodd-Frank Act provisions that have been implemented by the States as well as provisions that are in process. As part of the revised Compliance Review process in 2009, the ASC changed the format of the Compliance Review Report issued to the States after the ASC completes its on-site review of a State's Program. The Compliance Review Report presents the findings of the ASC's on-site review of a State's Program, including areas of non-compliance with Title XI and recommendations for improvement.

The proposed Policy Statements are intended to provide States with the necessary information to maintain their Programs in compliance with Title XI. Further, the proposed Policy Statements address the ASC's authority to evaluate a State Program for compliance with Title XI and to take sanctions against a State when its Program does not comply with Title XI. The proposal also excludes provisions from the current Policy Statements that have become outdated or lack enforceability. Additionally, the proposal reflects consideration of recent amendments to the Uniform Standards of Professional Appraisal Practice (USPAP) and the AQB Criteria.

##### II. Summary of the Proposed Policy Statements

Proposed Policy Statements 1 thru 7 correspond with the seven categories

<sup>4</sup> The ASC has issued two Bulletins notifying State Programs of statutory requirements brought about by the Title XI amendments resulting from the Dodd-Frank Act:

1. *Bulletin 10-1*, issued October 14, 2010, notified States that the ASC approved a modification of the annual National Registry fee to \$40 from \$25. To provide a reasonable transition period for implementation by the States, the fee increase became effective on January 1, 2012.

2. *Bulletin No. 2011-01*, issued March 18, 2011, addressed new requirements concerning reciprocity, qualification requirements for State licensed appraisers, minimum requirements for trainee appraisers and supervisory appraisers, course approval program of the Appraisal Foundation's AQB, and funding and staffing of State Programs.

evaluated during the ASC's Compliance Review process and included in the ASC Compliance Review Report to a State. Proposed Policy Statement 8 sets forth procedures in the event the ASC imposes interim sanctions against a State. The proposal also includes four appendices:

1. Appendix A provides an overview of the Compliance Review process and a revised rating system;
2. Appendix B provides a summary of requirements and related implementation standards for each Policy Statement;
3. Appendix C provides a glossary of terms; and
4. Appendix D contains previously issued ASC Bulletins and Supplements that provided States with guidance on compliance with the self-enabling provisions of the Dodd-Frank Act, including the effective date by which a State needed to take action.

##### III. Statement-by-Statement Analysis

The following provides a statement-by-statement analysis highlighting the changes to the current Policy Statements reflected in the proposal.

###### *Introduction and Purpose*

The proposal's introduction and purpose statement provides a brief overview of the ASC's authority and its monitoring function of State Programs to determine compliance, or lack thereof, with Title XI. Much of the explanatory language in the current Policy Statements, regarding functions of the ASC and the establishment of State Programs, is well known and presented in the ASC Annual Report to Congress and, therefore, is being omitted from the proposal. The proposal focuses rather on the Policy Statements' goal to provide States with necessary information to maintain their Programs in compliance with Title XI.

###### *Policy Statement 1: Statutes, Regulations, Policies and Procedures Governing State Programs*

Proposed Policy Statement 1 will consolidate and replace the first four current Policy Statements (*State Regulatory Structure and Independence of Functions; Appraiser Classifications; Appraisal Standards; Written Appraisal Reports*) and replaces Policy Statement 7 (*Prohibition Against Discrimination*). Policy Statement 1 will address the first area of review in the ASC Compliance Review process of a State Program's statutes, regulations, policies and procedures for compliance with Title XI.

Since State Programs are now established, much of the language in the

current Policy Statements with instructions on the initial establishment of an appraiser licensing and certification program has been eliminated. The proposal does preserve essential language concerning independence and ethical standards with deference given to State standards. The proposal reflects the authority the Dodd-Frank Act granted the ASC to review State Programs for adequate funding and staffing. The proposal also addresses the discussion on appraiser classifications, addressing the Dodd-Frank Act provisions concerning licensed level appraisers, as well as trainees and supervisors, and outdated language has been removed. The proposal also addresses the other credential designations used by States that should be distinguished from the federally recognized credentials. The discussion on the guidance issued by Federal financial institutions regulatory agencies and the statutory requirements outside of Title XI in the current Policy statements has been eliminated in deference to those provisions standing on their own. The proposal reflects an amendment to the current Policy Statements discussion on prohibiting discrimination to reflect the Dodd-Frank Act provision that allows criteria established by the Federal financial institutions regulatory agencies for appraiser qualifications to include membership in a nationally recognized professional appraisal organization.

The proposal addresses attendance by ASC Policy Managers at States' closed/ executive sessions. The proposal explains how attendance at such meetings, except in the case of "quasi-judicial" proceedings specifically authorized by State statute, is an essential part of the ASC's monitoring function.

#### *Policy Statement 2: Temporary Practice*

Proposed Policy Statement 2 will replace the current Policy Statement 5 (*Temporary Practice*) and will address the second area of review in the ASC Compliance Review process pertaining to temporary practice for compliance with Title XI.

Proposed Policy Statement 2 provides a clear explanation of what the ASC will consider to determine whether a State's fees or requirements are excessive or burdensome to an appraiser's ability to work in a State on a temporary basis relative to the State's cost of processing and issuing a temporary practice credential. Burdensome requirements are specified separately for the "Home State agency" and the "Host State." The proposal reflects that a fee for an initial permit and one extension in excess of

\$250 is an excessive fee. The ASC acknowledges that the current Policy Statement set the maximum fee of \$150 in 1997 and recognizes that States' costs have increased over time. Using the Consumer Price Index Inflation Calculator from the U.S. Department of Labor, Bureau of Labor Statistics, the change in prices of all goods and services at a \$150 fee in 1997 equaled about a \$215 fee as of July 2012. The ASC considered this information and based the proposed maximum fee of \$250 on revised Policy Statement 2 becoming final in 2012, and remaining in effect for several years.

The language in current Policy Statement 5 concerning the requirements of an appraiser to register for temporary practice in a State to perform a "technical review" is not included in the proposal. The ASC believes that text is outdated and unnecessary.

#### *Policy Statement 3: National Registry*

Proposed Policy Statement 3 will replace the current Policy Statement 8 (*National Registry of State Certified and Licensed Appraisers*) and Policy Statement 9 (*Information Sharing*), and will address the third area of review in the ASC Compliance Review process of a State Program's policies and practices pertaining to the ASC's National Registry for compliance with Title XI.

Proposed Policy Statement 3 addresses several Dodd-Frank Act amendments to Title XI concerning appraiser classifications and States' ASC National Registry reporting requirements. Several provisions in the current Policy Statements concerning the ASC National Registry are being updated or removed to reflect current ASC procedures. The proposal includes a discussion on the ASC National Registry's extranet application and security requirements for States (including designation of an Authorized Registry Official and adoption of a written policy to adequately protect the right of access, as well as the ASC issued UserName and Password). The proposal preserves the critical nature of information sharing among the States with regard to disciplinary actions taken against appraisers. The proposal requires States to notify the ASC as soon as practicable if it is determined that a credential holder listed on the National Registry does not, or did not, qualify for the credential held. The proposal also requires States to notify the ASC as soon as practicable in the event of voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice. Further, the proposal requires

States to submit all "disciplinary actions" (as defined in the proposed Policy Statement) to the ASC via the extranet application for inclusion on the National Registry as of July 1, 2013.

#### *Policy Statement 4: Application Process*

Proposed Policy Statement 4 will replace numerous provisions in the current Policy Statement 10 (*Enforcement*) and will address the fourth area of review in the ASC Compliance Review process pertaining to a State Program's application process for compliance with Title XI.

Proposed Policy Statement 4 addresses requirements for:

- (1) State's general processing of applications for an appraiser credential;
- (2) An appraiser's qualifying education, including a State's verification that an applicant's education complies with AQB Criteria, and for verification and audit of an appraiser's continuing education credits for license and certification renewals;
- (3) An applicant's compliance with AQB Criteria experience requirements, including the State's review and validation of an applicant's experience claims on initial credential or upgrade applications; and
- (4) State's use and administration of an appropriate AQB-approved qualifying examination.

The proposed Policy Statement 4 is structured according to the type of application being processed (that is, an initial, upgrade, reinstatement, or renewal application). The proposal also includes a discussion on the procedures that a State should have concerning the verification, validation and audit of information in applications.

#### *Policy Statement 5: Reciprocity*

Proposed Policy Statement 5 will replace current Policy Statement 6 (*Reciprocity*) and will address the fifth area of review in the ASC Compliance Review process of a State Program's reciprocity policy for compliance with Title XI.

Proposed Policy Statement 5 sets forth the new reciprocity requirements mandated by the Dodd-Frank Act, and consequences to a State that fails to comply. Policy Statement 5 also provides examples of a State's implementation of a reciprocity process.

Title XI now requires that in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a reciprocity policy in place that will require issuance of a reciprocal credential IF:

1. the appraiser is coming from a State that is "in compliance";

2. the appraiser holds a valid credential from that State; and

3. the credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

Therefore, the proposal explains that appraisers relying on a credential from a State that does not have a compliant reciprocity policy in place are not eligible to perform appraisals for federally related transactions. A State may have a more lenient or more open door policy; however, States cannot impose additional impediments to issuance of reciprocal credentials. For purposes of implementing the Dodd-Frank Act's reciprocity requirements and considering the proposed rating criteria in Appendix A, States with an ASC Finding<sup>5</sup> of "Poor" would not satisfy the "in compliance" provision for reciprocity. Further, as explained in the proposal, States would not be required to grant a reciprocal credential to an appraiser credentialed in another State with a current ASC Finding of "Poor." On March 18, 2011, the ASC issued Bulletin No. 2011-01 to States that as of July 1, 2013, a State will be evaluated by the ASC for compliance with the new reciprocity requirements.

#### *Policy Statement 6: Education*

Proposed Policy Statement 6 adds new discussion that is not in the current Policy Statements and will address the sixth area of review in the ASC Compliance Review process of a State Program's administration of education requirements for compliance with AQB Criteria and Title XI.

Proposed Policy Statement 6 provides States with specific requirements regarding course approval, including the approval of distance education courses (e.g., on-line courses), and refers to discussion in proposed Policy Statement 4 concerning qualifying and continuing education in the application process. As required by the Dodd-Frank Act, the proposal encourages States to accept courses approved by the AQB's Course Approval Program.

#### *Policy Statement 7: State Agency Enforcement*

Proposed Policy Statement 7 will replace several provisions in current Policy Statement 10 (*Enforcement*) and will address the seventh area of review in the ASC Compliance Review process of a State Program's administration of its

enforcement program for compliance with Title XI.

Proposed Policy Statement 7 provides States with specific requirements to demonstrate that they are operating an effective and compliant enforcement program in addressing complaints against an appraiser. The proposed Policy Statement 7 addresses expectations for enforcement regarding: (1) Timeliness of complaint investigations and initiating enforcement action; (2) effectiveness of a State's enforcement process; (3) consistent and equitable treatment of an appraiser in the State's enforcement process; and (4) appropriate complaint documentation in a State's enforcement records, including specific requirements for tracking complaints of alleged appraiser misconduct or wrongdoing using an electronic complaint log.

#### *Policy Statement 8: Interim Sanctions*

Proposed Policy Statement 8 establishes a new ASC policy that addresses interim sanction authority the Dodd-Frank Act granted the ASC, and outlines due process considerations in the event the ASC exercises such authority.

Pursuant to the Dodd-Frank Act, the ASC has the authority to impose interim actions and suspensions against a State agency as an alternative to or in advance of a non-recognition proceeding against a State agency that fails to have an effective Program.<sup>6</sup> The ASC is proposing that an "ASC Finding" of "Poor" on a State's Compliance Review Report would indicate that the State's Program is failing and, in turn, would trigger an analysis by the ASC for potential interim sanction. The Dodd-Frank Act's interim sanction authority specifically authorizes the ASC to remove a State licensed or certified appraiser from the National Registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration, or disciplinary proceedings. The proposed Policy Statement 8 addresses due process procedures that would provide a State with an opportunity to be heard or to correct conditions before the ASC imposes an interim sanction.

#### *Appendices*

The proposal includes four appendices. Proposed Appendix A provides an overview of the Compliance Review process, including revised ASC Compliance Review Findings (referred to as ASC Findings in this appendix) for rating a State's compliance, or lack thereof, with Title XI. The proposed

ASC Findings rating criteria places particular emphasis on whether the State is maintaining an effective regulatory Program in compliance with Title XI. At the conclusion of the Compliance Review process, the ASC would assign the State's Program one of the five proposed ASC Findings (that is, a State's Program would be either "Excellent," "Good," "Needs Improvement," "Not Satisfactory," or "Poor"). As proposed, the ASC also would use the ASC Finding to establish the Review Cycle for that State. Proposed Appendix B provides a summary of requirements and related implementation standards for each of the proposed Policy Statements. Proposed Appendix C provides a glossary of terms to aid in the reading of the proposed Policy Statements. Proposed Appendix D will contain the ASC Bulletins and Supplements that have already been issued to assist States in understanding and complying with the self-enabling provisions of the Dodd-Frank Act.

#### **IV. Request for Comment**

The ASC seeks comment on all aspects of the revised Policy Statements, including any potential burden or cost to the States to comply with these Policy Statements. In addition, the ASC requests comments on the following specific questions:

1. Do the proposed rating criteria in Appendix A provide sufficient clarity to understand the differences among the ASC Finding categories?
2. Do the ASC Finding categories appropriately identify the degree of perceived risk of a Program's potential failure?
3. Do the ASC Finding rating criteria provide enough information to explain the judgment factors that the ASC will use to assess whether a State is in compliance with Title XI?
4. Do the revised Policy Statements achieve the ASC's goal in improving the understandability and enforceability of Title XI and the AQB Criteria?
5. Do the revised Policy Statements provide State Programs with the necessary information to understand the ASC's expectations of the Program during a Compliance Review?

The text of the proposed Policy Statements is as follows:

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<sup>5</sup> See below, Appendix A of the proposed Policy Statements, *Compliance Review Process*, for an explanation of ASC Findings.

<sup>6</sup> Title XI § 1118(a), 12 U.S.C. 3347.

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## Introduction and Purpose

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), as amended (Title XI), established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).<sup>7</sup> The purpose of Title XI is to

<sup>7</sup> The ASC board is made up of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation,

provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions. Specifically those appraisals shall be 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.

Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States<sup>8</sup> for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions.<sup>9</sup> The ASC performs periodic Compliance Reviews<sup>10</sup> of each State appraiser regulatory program (Program) to determine compliance, or lack thereof, with Title XI, and to assess the Program's implementation of the *Real Property Appraiser Qualification Criteria* (AQB Criteria) as adopted by the Appraiser Qualifications Board (AQB). The 50 States, District of Columbia, and four Territories<sup>11</sup> have State appraiser certifying and licensing agencies (State agency or State) monitored by the ASC through the Compliance Review process.

Pursuant to authority granted to the ASC under Title XI, the ASC is issuing these Policy Statements<sup>12</sup> to provide States with the necessary information to maintain their Programs in compliance with Title XI. Policy Statements 1 through 7 correspond with the categories that are evaluated during the Compliance Review process and included in the ASC Compliance Review Report (Report). Policy Statement 8 entitled *Interim Sanctions* sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC.

Office of the Comptroller of the Currency, and National Credit Union Administration). The other two members are designated by the heads of the Department of Housing and Urban Development and the Federal Housing Finance Agency.

<sup>8</sup> See Appendix C, *Glossary of Terms*, for the definition of "State."

<sup>9</sup> See Appendix C, *Glossary of Terms*, for the definition of "federally related transaction."

<sup>10</sup> See Appendix A, *Compliance Review Process*.

<sup>11</sup> The four Territories are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands.

<sup>12</sup> These Policy Statements, adopted \_\_\_\_\_, 2012, supersede all previous Policy Statements adopted by the ASC, the most recent version of which was issued in October 2008.

## Policy Statement 1

### *Statutes, Regulations, Policies and Procedures Governing State Programs*

#### A. State Regulatory Structure

Title XI requires the ASC to monitor State agencies for the purpose of determining whether they have policies, practices and procedures consistent with Title XI.<sup>13</sup> The ASC recognizes that each State may have legal, fiscal, regulatory or other factors that may influence the structure and organization of its Program. Therefore, a State has flexibility to structure its Program so long as it meets Title XI-related responsibilities.

States should maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest with other real estate-related professions. A State agency may be headed by a board, commission or an individual. State board<sup>14</sup> or commission members, or employees in policy or decision-making positions, should understand and adhere to State statutes and regulations governing performance of responsibilities consistent with the highest ethical standards for public service. In addition, Programs using private entities or contractors should establish appropriate internal policies, procedures, and safeguards to promote compliance with the State agency's responsibilities under Title XI and these Policy Statements.

#### B. Funding and Staffing

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended Title XI to require the ASC to determine whether States have sufficient funding and staffing to meet their Title XI requirements.<sup>15</sup> On July 1, 2011, as part of its Compliance Review process, the ASC formally began requesting information and supporting documentation regarding funding and staffing of Programs. Compliance with this provision requires that a State must provide its Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of a Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

<sup>13</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>14</sup> See Appendix C, *Glossary of Terms*, for the definition of "State board."

<sup>15</sup> See Appendix D, *Bulletin 2011-01*.

### C. Minimum Criteria

Title XI requires States to adopt and/or implement all relevant AQB Criteria. Historically, requirements established by a State for certified residential or certified general classifications have been required to meet or exceed AQB Criteria. Effective July 1, 2013, requirements established by a State for licensed appraisers, as well as for trainee and supervisory appraisers, must also meet or exceed the AQB Criteria, as required by the Dodd-Frank Act.<sup>16</sup>

### D. Federally Recognized Appraiser Classifications

#### 1. State Certified Appraisers

“State certified appraisers” means those individuals who have satisfied the requirements for residential or general certification in a State whose criteria for certification meet or exceed the minimum AQB Criteria. Permitted scope of practice and designation for State certified residential or certified general appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

#### 2. State Licensed Appraisers

As of July 1, 2013, “State licensed appraisers” means those individuals who have satisfied the requirements for licensing in a State whose criteria for licensing meet or exceed the minimum AQB Criteria.<sup>17</sup> Effective July 1, 2013, the permitted scope of practice and designation for State licensed appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

#### 3. Trainee Appraiser and Supervisory Appraiser

As of July 1, 2013, any minimum qualification requirements established by a State for individuals in the position of “trainee appraiser” and “supervisory appraiser” must meet or exceed the minimum AQB Criteria.<sup>18</sup> ASC staff will evaluate State designations such as “registered appraiser,” “apprentice appraiser,” “provisional appraiser,” or any other similar designation to determine if, in substance, such designation is consistent with a “trainee appraiser” designation and, therefore, administered to comply with Title XI. Effective July 1, 2013, the permitted scope of practice and designation for trainee appraisers and supervisory appraisers must be consistent with State

and Federal laws, including regulations and supplementary guidance.

Any State or Federal agency may impose additional appraiser qualification requirements for State licensed, certified residential or certified general classifications, or for trainee and supervisor classifications, if they consider such requirements necessary to carry out their responsibilities under Federal and/or State statutes and regulations, so long as the additional qualification requirements do not conflict with AQB Criteria.

### E. Non-Federally Recognized Credentials

States using non-federally recognized credentials or designations<sup>19</sup> should ensure that they can be easily distinguished from the federally recognized credentials.

### F. Appraisal Standards

Title XI and the Federal financial institutions regulatory agencies’ regulations mandate that all appraisals performed in connection with federally related transactions be in written form, prepared in accordance with generally accepted appraisal standards as promulgated by the Appraisal Standards Board (ASB) in the Uniform Standards of Professional Appraisal Practice (USPAP), and subject to review for compliance with USPAP.<sup>20</sup> States that have incorporated USPAP into State law should ensure that statutes or regulations are updated timely to adopt the latest version of USPAP, or if State law allows, automatically incorporate the latest version of USPAP. States should consider ASB Advisory Opinions, Frequently Asked Questions, and other written guidance issued by the ASB regarding interpretation and application of USPAP.

Any State or Federal agency may impose additional appraisal standards if they consider such standards necessary to carry out their responsibilities, so long as additional appraisal standards do not conflict with USPAP for work performed for federally related transactions.

### G. Prohibition Against Discrimination

Title XI prohibits excluding appraisers from consideration for an assignment solely by virtue of their lack of membership in a nationally recognized professional appraisal

organization.<sup>21</sup> Moreover, the appraisal regulations of the Federal financial institutions regulatory agencies address the selection of an appraiser, considering appraiser independence, professional association membership, and competency. With regard to membership in a nationally recognized professional appraisal organization, the agencies’ regulations prohibit a federally regulated financial institution from excluding an appraiser from consideration for an assignment solely by virtue of a membership or lack of membership in a particular organization. Such discrimination is also inappropriate by States in the administration of their Programs.

### H. Exemptions

Title XI and the Federal financial institutions regulatory agencies’ regulations specifically require the use of only State certified or licensed appraisers in connection with the appraisal of certain real estate-related financial transactions.<sup>22</sup> 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 when 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 financial institution would not be permitted to perform an appraisal in connection with a federally related transaction. States with exemption provisions must take steps to ensure that the provisions are not being used or interpreted in this manner.

### I. ASC Staff Attendance at State Board Meetings

As part of the on-site Compliance Review process, ASC staff regularly attends State board meetings, including executive and/or closed sessions. States are expected to permit ASC staff to attend State board meetings except in the case of closed sessions for “quasi-judicial” proceedings specifically authorized and defined by State statute or regulation. The efficacy of the ASC’s Compliance Review process rests on the ASC’s ability to obtain reliable information about all areas of a State’s Program. ASC staff is obligated to protect information obtained during the Compliance Review process concerning

<sup>19</sup> See Appendix C, *Glossary of Terms*, for the definition of “non-federally recognized credentials or designations.”

<sup>20</sup> See Appendix C, *Glossary of Terms* for the definition of “Uniform Standards of Professional Appraisal Practice”.

<sup>21</sup> Title XI § 1122(d), 12 U.S.C. 3351.

<sup>22</sup> Title XI § 1112, 12 U.S.C. 3341; Title XI § 1113, 12 U.S.C. 3342; Title XI § 1114, 12 U.S.C. 3343.

<sup>16</sup> See Appendix D, *Bulletin 2011-01*.

<sup>17</sup> See Appendix D, *Supplement to Bulletin 2011-01*.

<sup>18</sup> See Appendix D, *Bulletin 2011-01*.

the privacy of individuals and any confidential matters.

#### J. Summary of Requirements

Appendix B provides a summary of requirements and related implementation standards for each Policy Statement. The summary of requirements and implementation standards sets forth expectations for a State to demonstrate that its Program meets Title XI mandates.

#### Policy Statement 2

##### Temporary Practice

#### A. Requirement for Temporary Practice

Title XI requires State agencies to recognize, on a temporary basis, the certification or license of an out-of-State appraiser entering the State for the purpose of completing an appraisal assignment<sup>23</sup> for a federally related transaction. The out-of-State appraiser must register with the State agency in the State of temporary practice (host State). Thus, a credentialed appraiser<sup>24</sup> from State A has a statutory right to enter State B to perform an assignment concerning a federally related transaction, so long as the appraiser registers with the State agency in State B prior to performing the assignment. Though Title XI contemplates reasonably free movement of credentialed appraisers across State lines, an out-of-State appraiser must comply with the host State's real estate appraisal statutes and regulations and is subject to the host State's full regulatory jurisdiction. States should rely on the National Registry to verify credential history on applicants for temporary practice.

State agencies 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 a State does not have an established policy, a State agency may choose to refuse to honor an out-of-State certified or licensed appraiser's temporary practice rights when a State has determined that the appraiser is abusing his or her temporary practice rights and is regularly engaging in real estate appraisal within the State.

#### B. Excessive Fees or Burdensome Requirements

Title XI prohibits States from imposing excessive fees or burdensome requirements, as determined by the

<sup>23</sup> See Appendix C, *Glossary of Terms*, for the definition of "assignment."

<sup>24</sup> See Appendix C, *Glossary of Terms*, for the definition of "credentialed appraisers."

ASC, for temporary practice.<sup>25</sup> Adherence by State agencies to the following mandates and prohibitions will deter the imposition of excessive fees or burdensome requirements.

1. Host State agencies must:
  - a. Issue temporary practice permits on an assignment basis;
  - b. Issue temporary practice permits within five business days of receipt of a completed application, or notify the applicant and document the file as to the circumstances justifying delay or other action;
  - c. Issue temporary practice permits designating the actual date of issuance;
  - d. Take regulatory responsibility for a temporary practitioner's unethical, incompetent and/or fraudulent practices performed while in the State;
  - e. Notify the appraiser's home State agency<sup>26</sup> in the case of disciplinary action concerning a temporary practitioner; and
  - f. Allow at least one temporary practice permit extension through a streamlined process.
2. Host State agencies may not:
  - a. Limit the valid time period of a temporary practice permit to less than 6 months, except in the case of an appraiser not holding a credential in active status for at least that period of time;
  - b. Limit an appraiser to one temporary practice permit per calendar year;<sup>27</sup>
  - c. Charge a temporary practice permit fee exceeding \$250, including one extension fee;
  - d. Impose State appraiser qualification requirements upon temporary practitioners that exceed AQB Criteria for the credential held;
  - e. Require temporary practitioners to obtain a certification or license in the State of temporary practice;
  - f. Require temporary practitioners to affiliate with an in-State licensed or certified appraiser;
  - g. Refuse to register licensed or certified appraisers seeking temporary practice in a State that does not have a licensed or certified level credential; or
  - h. Prohibit temporary practice.
3. Home State agencies may not:

<sup>25</sup> Title XI § 1122(a) (2), 12 U.S.C. 3351.

<sup>26</sup> See Appendix C, *Glossary of Terms*, for the definition of "home State agency."

<sup>27</sup> State agencies 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 a 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 services within the State.

a. Delay the issuance of a written "letter of good standing" or similar document for more than five business days after receipt of a request; or

b. Fail to take disciplinary action, if appropriate, 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.

#### C. Summary of Requirements

Appendix B provides a summary of requirements and related implementation standards for each Policy Statement. The summary of requirements and implementation standards sets forth expectations for a State to demonstrate that its Program meets Title XI mandates.

#### Policy Statement 3

##### National Registry

#### A. Requirements for the National Registry

Title XI requires the ASC to maintain a National Registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions.<sup>28</sup> Title XI further requires the States to transmit to the ASC: (1) A roster listing individuals who have received a State certification or license in accordance with Title XI; (2) reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, revocations and suspensions; and (3) the Registry fee as set by the ASC<sup>29</sup> from individuals who have received certification or licensing. States must notify the ASC upon determination if a credential holder listed on the National Registry does not, or did not, qualify for the credential held.

Roster and Registry fee requirements apply to all individuals who receive State certifications or licenses, originally or by reciprocity, whether or not the individuals are, in fact, performing or planning 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 AQB-compliant certified appraisers in active status on the

<sup>28</sup> Title XI § 1103(a)(3), 12 U.S.C. 3332.

<sup>29</sup> Title XI § 1109, *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, requires the ASC to consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. (Title XI § 1109(a), 12 U.S.C. 3338.)

National Registry are eligible to perform appraisals in connection with federally related transactions. In order for a licensed appraiser to be listed on the National Registry as AQB-compliant, that individual must satisfy requirements for licensing in a State whose criteria meet or exceed AQB Criteria. Beginning July 1, 2013, only AQB-compliant licensed appraisers in active status on the National Registry are eligible to perform appraisals in connection with federally related transactions.<sup>30</sup>

Some States may give State certified or licensed appraisers an option to not pay the Registry fee. If a State certified or licensed appraiser chooses not to pay the Registry fee, then the Program 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.<sup>31</sup> The Program 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," and the appraiser must not be listed in active status on the National Registry.

The ASC extranet application allows States to update their appraiser credential information directly to the National Registry. Only Authorized Registry Officials are allowed to request access for their State personnel (see section C below). The ASC will issue a Username and Password to the designated State personnel responsible for that State's National Registry entries. Designated State personnel are required to protect the right of access, and not share their Username or Password with anyone. State agencies must adopt and implement a written policy to adequately protect the right of access, as well as the ASC issued Username and Password.

For those States not using the ASC extranet application, the ASC has provided detailed specifications regarding the data elements on the National Registry and reporting procedures.<sup>32</sup>

The ASC creates a National Registry number for each appraiser and protects each appraiser's privacy rights. The unique identification number is provided to appropriate State and Federal regulatory agencies to simplify

multi-State queries regarding specific appraisers.

#### B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual Registry fee, as set by the ASC, for State certified or licensed appraisers within the State to be listed on the National Registry.<sup>33</sup> Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-year certifications or licenses, the State may choose to remit to the ASC the total amount of the multiple-year Registry fees, or to remit annually. The ASC will record appraisers on the National Registry only for the number of years paid. When a State's failure to pay a past due invoice results in appraisers being listed as inactive, the ASC will not change those appraisers back to active status until payment is received. An inactive status on the National Registry, for whatever the reason, renders an appraiser ineligible to perform appraisals in connection with federally related transactions.

#### C. Access to National Registry Data

The ASC Web site provides free access to the public portion of the National Registry at [www.asc.gov](http://www.asc.gov). The public portion of the National Registry data may be downloaded using predefined queries or user-customized applications.

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. States must designate a high ranking officer, such as an executive director, to serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States should ensure that the authorization information provided to the ASC is updated and accurate.

#### D. Information Sharing

Information sharing (routine exchange of certain information among lenders, governmental entities, State agencies and the ASC) is essential for carrying out Title XI. Title XI requires the ASC, any other Federal agency or instrumentality, or any federally recognized entity 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. The ASC believes that full implementation of this Title XI requirement is vital to the integrity of the system of State appraiser regulation.

The National Registry's value and usefulness are largely dependent on the quality and frequency of State's data submissions. Accurate and frequent data submissions from all States are necessary to maintain an up-to-date National Registry. States must submit appraiser data to the ASC at least monthly. If there are no changes to the data, the State agency must notify the ASC of that fact in writing. States are encouraged to submit data as frequently as possible.

State agencies must report expeditiously any disciplinary action<sup>34</sup> taken against an appraiser to the ASC. As of July 1, 2013, all States will be required to report disciplinary action via the extranet application as soon as practicable for the State to do so. States not reporting via the extranet application will be required to provide, in writing to the ASC, circumstances preventing compliance with this requirement. Prior to July 1, 2013, 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., voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice), the State agency must notify the ASC as soon as practicable in order for the ASC to inactivate the appraiser's status on the National Registry, thereby making the appraiser ineligible to perform appraisals in connection with federally related transactions, or other transactions requiring the use of State certified or licensed appraisers.

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, States should 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.

<sup>30</sup> See Appendix D, *Supplement to Bulletin 2011-01*.

<sup>31</sup> See Appendix C, *Glossary of Terms*, for the definition of "non-federally related transactions."

<sup>32</sup> See section D, *Information Sharing*, below requiring all States to report disciplinary action via the extranet application by July 1, 2013.

<sup>33</sup> See Appendix D, *Bulletin 10-1, October 14, 2010*. Under authority in the Dodd-Frank Act, the ASC approved a modification of the annual Registry fee to \$40 (from \$25) at its meeting of October 13, 2010. The ASC raised the Registry fee to support its supervisory activities, including additional authority and responsibility under the Dodd-Frank Act.

<sup>34</sup> See Appendix C, *Glossary of Terms*, for the definition of "disciplinary action."

## E. Summary of Requirements

Appendix B provides a summary of requirements and related implementation standards for each Policy Statement. The summary of requirements and implementation standards sets forth expectations for a State to demonstrate that its Program meets Title XI mandates.

### Policy Statement 4

#### Application Process

AQB Criteria sets forth the minimum education, experience and examination requirements for credentialing of real property appraisers. In the application process, States must, at a minimum, employ a reliable means of validating both education and experience credit claimed by applicants for credentialing.<sup>35</sup>

#### A. Processing of Applications

States must process applications in a consistent, equitable and well-documented manner.

States must ensure appraiser credential applications submitted for processing do not contain expired examinations as established by AQB Criteria (24-month examination validity period).

Applications for credentialing should be timely processed by State agencies (within 90 days). Any delay in the processing of applications should be sufficiently documented in the file to justify the delay.

#### B. Qualifying Education for Initial or Upgrade Applications

States must verify that:

(1) The applicant's claimed education courses are acceptable under AQB Criteria; and

(2) The applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought.

Documentation must be provided by applicants to support education claimed by applicants for initial credentialing or upgrade.

States may not accept an affidavit for education claimed from applicants for certification.

Effective July 1, 2013, States may not accept an affidavit for education claimed from applicants for any federally recognized credential.<sup>36</sup>

<sup>35</sup> Includes applications for credentialing of State licensed, certified residential or certified general classifications, and trainee and supervisor classifications.

<sup>36</sup> 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,

States must maintain adequate documentation to support verification of claimed education by applicants.

#### C. Continuing Education for Reinstatement and Renewal Applications

##### 1. Reinstatement Applications

States must verify that:

(1) The applicant's claimed continuing education courses are acceptable under AQB Criteria; and

(2) The applicant has successfully completed all continuing education consistent with AQB Criteria for reinstatement of the appraiser credential sought.

Documentation must be provided by applicants to support continuing education claimed by applicants for reinstatement.

States may not accept an affidavit for continuing education claimed from applicants for reinstatement.

States must maintain adequate documentation to support verification of claimed education.

##### 2. Renewal Applications

States must ensure that continuing education courses for renewal of an appraiser credential are consistent with AQB Criteria.

States must ensure that continuing education hours required for renewal of an appraiser credential were completed consistent with AQB Criteria.

States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure that adheres to the following objectives and requirements:

*a. Validation objectives*—The State's validation procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. Therefore, the sample must include an adequate number of affidavits to have an acceptable chance of identifying appraisers who fail to comply with AQB Criteria, and the sample must include a reasonable representation of the appraiser population being sampled.

*b. Minimum Standards*—The following minimum standards apply to these audits:

(1) Validation must include a prompt post-approval audit. Each audit of an affidavit for continuing education credit claimed must be completed within 60 days from the date the renewed credential is issued;

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.

(2) States must audit the continuing education-related affidavit for each credentialed appraiser selected in the sampling procedure;

(3) The State must determine that the education courses claimed conform to AQB Criteria and that the appraiser successfully completed each course;

(4) When a State determines that an appraiser's continuing education does not meet AQB Criteria, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. Also, upon such a determination, the State must notify the ASC as soon as practicable in order for the appraiser's record on the National Registry to be updated appropriately; and

(5) If more than ten percent of the audited appraisers fail to meet the AQB Criteria, the State must take remedial action<sup>37</sup> to address the apparent weakness of its affidavit process. The ASC will determine on a case-by-case basis whether remedial actions are effective and acceptable.

*c. Documentation*—States must maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

*d. List of Education Courses*—To promote accountability, the ASC encourages States accepting affidavits for continuing education credit claimed for credential renewal to require that the appraiser provide a list of courses to support the affidavit.

#### D. Experience for Initial or Upgrade Applications

States must ensure that appraiser experience logs conform to AQB Criteria.

States may not accept an affidavit for experience credit claimed from applicants for certification.

Effective July 1, 2013, States may not accept an affidavit for experience credit claimed from applicants for any federally recognized credential.<sup>38</sup>

<sup>37</sup> For example:

(1) A State may conduct an additional audit using a higher percentage of audited appraisers; or

(2) A State may publically post action taken to sanction non-compliant appraisers to increase awareness in the appraiser community of the importance of compliance with continuing education requirements.

<sup>38</sup> See Appendix C, *Glossary of Terms*, for the definition of "federally recognized credential." If prior to July 1, 2013, a State accepted experience-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 experience documentation to support the appraiser's

## 1. Validation Required

States must implement a reliable validation procedure to verify that each applicant's:

- (1) Experience meets AQB Criteria;
- (2) Experience is USPAP compliant;

and  
(3) Experience hours have been successfully completed consistent with AQB Criteria.

## 2. Validation Procedures, Objectives and Requirements

### a. Selection of Work Product

Program staff or State board members must select the work product to be analyzed for USPAP compliance; applicants may not have any role in selection of work product. States must analyze a representative sample of the applicant's work product.

### b. USPAP Compliance

For appraisal experience to be acceptable under AQB Criteria, it must be USPAP compliant. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP.

Persons analyzing work product for USPAP compliance must have sufficient knowledge to make that determination.

### c. Determination of Experience Time Periods

When measuring the experience time period required by AQB Criteria, States must review each appraiser's experience log and note the dates of the first and last acceptable appraisal activity performed by the applicant. At a minimum, the time period spanned between those appraisal activities must comply with the AQB Criteria.

### d. Supporting Documentation

States must maintain adequate documentation to support validation methods. The applicant's file, either electronic or paper, must include the information necessary to identify each appraisal assignment selected and analyzed by the State, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence

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, if a State accepted an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the licensed classification, and subsequently that 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.

exchanged with the applicant regarding the appraisals submitted. This supporting documentation may be discarded upon the completion of the first ASC Compliance Review performed after the credential issuance or denial for that applicant.

### E. Examination

States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized appraiser classifications requiring an examination.

### F. Summary of Requirements

Appendix B provides a summary of requirements and related implementation standards for each Policy Statement. The summary of requirements and implementation standards sets forth expectations for a State to demonstrate that its Program meets Title XI mandates.

## Policy Statement 5

### Reciprocity

#### A. Reciprocity Policy

Title XI contemplates the reasonably free movement of certified and licensed appraisers across State lines. Beginning July 1, 2013, the ASC will monitor Programs for compliance with the reciprocity provision of Title XI as amended by the Dodd-Frank Act.<sup>39</sup> Title XI requires that in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a reciprocity policy in place for issuing a reciprocal credential if:

- a. The appraiser is coming from a State that is "in compliance"; and
- b. (i) The appraiser holds a valid credential from that State; and
- (ii) The credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

An appraiser relying on a credential from a State that does not have such a policy in place may not perform appraisals for federally related transactions. A State may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy. However, States cannot impose additional impediments to issuance of reciprocal credentials.<sup>40</sup>

For purposes of implementing the reciprocity policy, States with an ASC Finding<sup>41</sup> of "Poor" do not satisfy the

<sup>39</sup> Title XI § 1122(b), 12 U.S.C. 3351.

<sup>40</sup> Effective July 1, 2013, States will be evaluated for compliance with this Title XI requirement.

<sup>41</sup> See Appendix A, *Compliance Review Process*, for an explanation of ASC Findings.

"in compliance" provision for reciprocity. Therefore, States are not required to recognize, for purposes of granting a reciprocal credential, the license or certification of an appraiser credentialed in a State with an ASC Finding of "Poor."

#### B. Application of Reciprocity Policy

In order to assist States in implementing reciprocity in a manner that complies with Title XI, the following provides further illustration of the reciprocity policy through examples of application.

The examples refer to the reciprocity policy requiring issuance of a reciprocal credential IF:

- a. The appraiser is coming from a State that is "in compliance"; AND
- b. (i) The appraiser holds a valid credential from that State; AND
- (ii) The credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

#### 1. Additional Requirements Imposed on Applicants

STATE A requires that prior to issuing a reciprocal credential, the applicant must certify that disciplinary proceedings are not pending against that applicant in any jurisdiction. Under b(ii) above, if this requirement is not imposed by STATE A on its own applicants for credentialing, STATE A cannot impose this requirement on applicants for reciprocal credentialing.

#### 2. Credentialing Requirements

An appraiser is seeking a reciprocal credential in STATE A. The appraiser holds a valid credential in STATE Z, even though it was issued in 2007. This satisfies b(i) above. However in order to satisfy b(ii), STATE A would evaluate STATE Z's credentialing requirements as they currently exist to determine whether they meet or exceed STATE A's current requirements for credentialing.

#### C. Appraiser Compliance Requirements

Appraisers granted reciprocity must comply with the home State agencies' and reciprocating States' policies, rules and statutes governing appraisers, including requirements for payment of certification and licensing fees, as well as continuing education. An appraiser must pay a National Registry fee for each State in which a credential is held.

#### D. Summary of Requirements

Appendix B provides a summary of requirements and related implementation standards for each Policy Statement. The summary of

requirements and implementation standards sets forth expectations for a State to demonstrate that its Program meets Title XI mandates.

### Policy Statement 6

#### Education

AQB Criteria sets forth minimum requirements for appraiser education courses. This Policy Statement addresses proper administration of education requirements for compliance with AQB Criteria. (For requirements concerning qualifying and continuing education in the application process, see Policy Statement 4, *Application Process*.)

#### A. Course Approval

States must ensure that approved appraiser education courses are consistent with AQB Criteria.

States must maintain sufficient documentation to support that approved appraiser education courses conform to AQB Criteria.

States should ensure that course approval expiration dates assigned by the State coincide with the endorsement period assigned by the AQB's Course Approval Program and/or International Distance Education Certification Center (IDECC), or any other AQB-approved organization providing approval of course design and delivery.

States should ensure that educational providers are afforded equal treatment in all respects.<sup>42</sup> The ASC encourages States to accept courses approved by the AQB's Course Approval Program.

#### B. Distance Education

States must ensure that distance education courses meet AQB Criteria.

States must ensure the delivery mechanism for distance education courses offered by a non-academic provider has been approved by an AQB-approved organization (e.g. IDECC) providing approval of course design and delivery.

#### C. Summary of Requirements

Appendix B provides a summary of requirements and related implementation standards for each Policy Statement. The summary of requirements and implementation standards sets forth expectations for a

State to demonstrate that its Program meets Title XI mandates.

### Policy Statement 7

#### State Agency Enforcement

#### A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned appraisers and maintains an effective regulatory program.<sup>43</sup>

#### B. Enforcement Process

States must ensure that the system for processing and investigating complaints<sup>44</sup> and sanctioning appraisers is administered in a timely, effective, consistent, equitable, and well-documented manner.

#### 1. Timely Enforcement

States must process complaints of appraiser misconduct or wrongdoing in a timely manner to ensure effective supervision of appraisers, and when appropriate, that incompetent or unethical appraisers are not allowed to continue their appraisal practice. Absent special documented circumstances,<sup>45</sup> final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date.

#### 2. Effective Enforcement

Effective enforcement requires that States investigate allegations of appraiser misconduct or wrongdoing, and if allegations are proven, take appropriate disciplinary or remedial action. Dismissal of an alleged violation solely due to an "absence of harm to the public" is inconsistent with Title XI. Financial loss or the lack thereof is not an element in determining whether there is a violation. The extent of such loss, however, may be a factor in determining the appropriate level of discipline.

Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP.

States must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint.

Closure of a complaint based on a State's statute of limitations results in

<sup>43</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>44</sup> See Appendix C, *Glossary of Terms*, for the definition of "complaint."

<sup>45</sup> See Appendix C, *Glossary of Terms*, for the definition of "special documented circumstances."

dismissal of a complaint without the investigation of the merits of the complaint, and is inconsistent with the Title XI requirement that States assure effective supervision of the activities of credentialed appraisers.<sup>46</sup>

#### 3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

#### 4. Well-Documented Enforcement

"Well-documented" means that States obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

#### a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- Demonstrate that appraisal reports are analyzed and all USPAP violations are identified;
- Include rationale for the final outcome of the case (i.e. dismissal or imposition of discipline);
- Include documentation explaining any delay in processing, investigation or adjudication;
- Contain documentation that all ordered or agreed upon discipline, such as probation, fine, or completion of education is tracked and that completion of all terms is confirmed; and
- Be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

#### b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or Offices of Administrative Hearings. The complaint log must include the following information in an electronic, sortable spreadsheet format:

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (e.g. consumer, lender, bank regulator, appraiser, hotline)
5. Last action taken and date taken (e.g. 1/1/10 spoke to Attorney General

<sup>46</sup> Title XI § 1117, 12 U.S.C. 3346.

<sup>42</sup> For example:

(1) Consent agreements requiring additional education may not specify a particular course provider, thereby discriminating against other providers on the State's approved course listing offering the same course; or

(2) courses from professional organizations may not be automatically approved and/or approved in a manner that is less burdensome than the State's normal approval process.

- and scheduled an informal conference with the Respondent to discuss settlement, 1/12/10 spoke to the Administrative Hearing Commission and scheduled a hearing date, 2/27/10 filed objection to continuance)
6. Current status of the complaint
  7. Spreadsheet showing chronological record of each action taken
  8. Date the complaint was closed (e.g. final disposition by the Administrative Hearing Agency, Office of the Attorney General, State Appraiser Regulatory Agency or Court of Appeals)
  9. Method of disposition (e.g. dismissal, letter of warning, consent order, final order)

### C. Summary of Requirements

Appendix B provides a summary of requirements and related implementation standards for each Policy Statement. The summary of requirements and implementation standards sets forth expectations for a State to demonstrate that its Program meets Title XI mandates.

## Policy Statement 8

### Interim Sanctions

#### A. Authority

Title XI as amended by the Dodd-Frank Act states that the ASC shall have the authority to impose interim actions and suspensions, as an alternative to or in advance of a non-recognition proceeding,<sup>47</sup> against a State agency that fails to have an effective Program.<sup>48</sup> In determining whether such a Program is effective, the ASC shall conduct an analysis as required by Title XI.<sup>49</sup> An ASC Finding of "Poor" on the Report issued to a State at the conclusion of an ASC Compliance Review will trigger an analysis by the ASC for potential interim sanction(s).

#### B. Interim Sanctions

Title XI as amended by the Dodd-Frank Act grants the ASC authority to remove a State licensed or certified appraiser from the National Registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration, or disciplinary proceedings.<sup>50</sup>

#### C. Opportunity To Be Heard or Correct Conditions

The ASC shall provide the State agency with:

1. Written notice of intention to impose an interim sanction; and
2. Opportunity to respond or to correct the conditions causing such notice to the State. Notice and opportunity to respond or correct the conditions shall be in accordance with section D, *Procedures*.

### D. Procedures

This section prescribes the ASC's procedures which will be followed in arriving at a decision by the ASC to impose an interim sanction against a State agency.

#### 1. Notice

The ASC shall provide a written Notice of intention to impose an interim sanction (Notice) to the State agency. The Notice shall contain the ASC's analysis as required by Title XI of the State's licensing and certification of appraisers, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers, the investigation of complaints, and enforcement actions against appraisers.<sup>51</sup> The ASC shall verify the State's date of receipt, and publish both the Notice and the State's date of receipt in the **Federal Register**.

#### 2. State Agency Response

Within 15 days of receipt of the Notice, the State may submit a response to the ASC's Executive Director. Alternatively, a State may submit a Notice Not to Contest with the ASC's Executive Director. The filing of a Notice Not to Contest shall not constitute a waiver of the right to a judicial review of the ASC's decision, findings and conclusions. Failure to file a Response within 15 days shall constitute authorization for the ASC to find the facts to be as presented in the Notice and analysis. The ASC, for good cause shown, may permit the filing of a Response after the prescribed time.

#### 3. Briefs, Memoranda and Statements

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State agency may file with the ASC's Executive Director a written brief, memorandum or other statement providing factual data and policy and legal arguments regarding the matters set out in the Notice and analysis.

#### 4. Oral Presentations to the ASC

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the

State may file a request with the ASC's Executive Director to make oral presentation to the ASC. If the State has filed a request for oral presentation, the matter shall be heard within 45 days. An oral presentation shall be considered as an opportunity to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and is not a Meeting<sup>52</sup> of the ASC. On the appropriate date and time, the State agency will make the oral presentation before the ASC. Any ASC member may ask pertinent questions relating to the content of the oral presentation. Oral presentations will not be recorded or otherwise transcribed. Summary notes will be taken by ASC staff and made part of the record on which the ASC shall decide the matter.

#### 5. Conduct of Interim Sanction Proceedings

(a) *Written Submissions*. All aspects of the proceeding shall be conducted by written submissions, with the exception of oral presentations allowed under subsection 4 above.

(b) *Disqualification*. An ASC member who deems himself or herself disqualified may at any time withdraw. Upon receipt of a timely and sufficient affidavit of personal bias or disqualification of such member, the ASC will rule on the matter as a part of the record.

(c) *Authority of ASC Chairperson*. The Chairperson of the ASC, in consultation with other members of the ASC whenever appropriate, shall have complete charge of the proceeding and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings.

(d) *Rules of Evidence*. Except as is otherwise set forth in this section, relevant, material and reliable evidence that is not unduly repetitive is admissible to the fullest extent authorized by the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) and other applicable law.

#### 6. Decision of the ASC and Judicial Review

Within 90 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, or in the case of oral presentation having been granted, within 30 days after

<sup>52</sup>The proceeding is more in the nature of a Briefing not subject to open meeting requirements. The presentation is an opportunity for the State to brief the ASC—to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and for the ASC members to ask questions. Additional consideration is given to the fact that this stage of the proceeding is pre-decisional.

<sup>47</sup> Title XI § 1118(c), 12 U.S.C. 3347; 12 CFR, part 1102, subpart B.

<sup>48</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

presentation, the ASC shall issue a final decision, findings and conclusions and shall publish the decision promptly in the **Federal Register**. The final decision shall be effective on issuance. The ASC's Executive Director shall ensure prompt circulation of the decision to the State agency. A final decision of the ASC is a prerequisite to seeking judicial review.

**7. Computing Time**

Time computation is based on business days. The date of the act, event or default from which the designated period of time begins to run is not included. The last day is included unless it is a Saturday, Sunday, or Federal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or Federal holiday.

**8. Documents and Exhibits**

Unless otherwise provided by statute, all documents, papers and exhibits filed in connection with any proceeding, other than those that may be withheld from disclosure under applicable law,

shall be placed by the ASC's Executive Director in the proceeding's file and will be available for public inspection and copying.

**9. Judicial Review**

A decision of the ASC under this section shall be subject to judicial review. The form of proceeding for judicial review may include any applicable form of legal action, including actions for declaratory judgments, writs of prohibitory or mandatory injunction in a court of competent jurisdiction.<sup>53</sup>

**Appendix A—Compliance Review Process**

The ASC monitors State Programs for compliance with Title XI. The monitoring of a State Program is largely accomplished through on-site visits known as a Compliance Review (Review). A Review is conducted over a two- to four-day period, and is scheduled to coincide with a meeting of the Program's decision-making body whenever possible. ASC staff reviews the seven compliance areas addressed in Policy Statements 1 through 7. Sufficient documentation demonstrating compliance

must be maintained by a State and made available for inspection during the Review. ASC staff reviews a sampling of documentation in each of the seven compliance areas. The sampling is intended to be representative of the State Program in its entirety.

Based on the Review, ASC staff provides the State with an ASC staff report detailing preliminary findings. The State is given 60 days to respond to the ASC staff report. At the conclusion of the Review, a Compliance Review Report (Report) is issued to the State with the ASC Finding on the Program's overall compliance, or lack thereof, with Title XI. Deficiencies resulting in non-compliance in any of the seven compliance areas are cited in the Report. "Areas of Concern"<sup>54</sup> which potentially expose a Program to compliance issues in the future are also addressed in the Report. The ASC's final disposition is based upon the ASC staff report, the State's response and staff's recommendation.

The following chart provides an explanation of the ASC Findings and rating criteria for each ASC Finding category. The ASC Finding places particular emphasis on whether the State is maintaining an effective regulatory Program in compliance with Title XI.

ASC finding	Rating criteria	Review cycle*
Excellent .....	<ul style="list-style-type: none"> <li>State meets all Title XI mandates and complies with requirements of ASC Policy Statements.</li> <li>State maintains a strong regulatory Program.</li> <li>Very low risk of Program failure.</li> </ul>	2-year.
Good .....	<ul style="list-style-type: none"> <li>State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements.</li> <li>Deficiencies are minor in nature.</li> <li>State is adequately addressing deficiencies identified and correcting them in the normal course of business.</li> <li>State maintains an effective regulatory Program.</li> <li>Low risk of Program failure.</li> </ul>	2-year.
Needs Improvement .....	<ul style="list-style-type: none"> <li>State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements.</li> <li>Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program.</li> <li>State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies.</li> <li>State regulatory Program needs improvement.</li> <li>Moderate risk of Program failure.</li> </ul>	2-year with Follow-up Review.
Not Satisfactory .....	<ul style="list-style-type: none"> <li>State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements.</li> <li>Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program.</li> <li>State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing.</li> <li>State regulatory Program has substantial deficiencies.</li> <li>Substantial risk of Program failure.</li> </ul>	1-year.
Poor <sup>55</sup> .....	<ul style="list-style-type: none"> <li>State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements.</li> <li>Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program.</li> <li>State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies.</li> <li>High risk of Program failure.</li> </ul>	Continuous monitoring.

\* Program history or nature of deficiency may warrant a more accelerated Review Cycle.

<sup>53</sup> 5 U.S.C. 703—*Form and venue of proceeding.*

<sup>54</sup> See Appendix C, *Glossary of Terms*, for the definition of "Areas of Concern."

<sup>55</sup> An ASC Finding of "Poor" may result in significant consequences to the State. See Policy

Statement 5, *Reciprocity*; see also Policy Statement 8, *Interim Sanctions*.

The ASC has two primary Review Cycles: Two-year and one-year. Most States are scheduled on a two-year Review Cycle. States may be moved to a one-year Review Cycle if the ASC determines more frequent on-site Reviews are needed to ensure that the State maintains an effective Program. Generally, States are placed on a one-year Review Cycle because of non-compliance issues or serious areas of concerns that warrant more frequent on-site visits. Both two-year and one-year Review Cycles include a review of all aspects of the State's Program.

The ASC may conduct Follow-up Reviews. A Follow-up Review focuses only on specific areas identified during the previous on-site Review. Follow-up Reviews usually occur within 6–12 months of the previous Review. In addition, as a risk management tool, ASC staff identifies State Programs that may have a significant impact on the nation's appraiser regulatory system in the event of Title XI compliance issues. For States that represent a significant percentage of the credentials on the National Registry, ASC staff performs annual on-site Priority Contact visits. The primary purpose of the Priority Contact visit is to review topical issues, evaluate regulatory compliance issues, and maintain a close working relationship with the State. This is not a complete Review of the Program. The ASC will also schedule a Priority Contact visit for a State when a specific concern is identified that requires special attention.

#### Appendix B—Summary of Requirements

This Appendix B provides a summary of requirements and related implementation standards for Policy Statements 1 through 7. The summary of requirements and implementation standards sets forth expectations for a State to demonstrate that its Program meets Title XI mandates.

#### Policy Statement 1

##### *Statutes, Regulations, Policies and Procedures Governing State Programs*

1. States must require that appraisals be performed in accordance with the latest version of USPAP.<sup>56</sup>
2. States must adopt and/or implement all relevant AQB Criteria.<sup>57</sup>
3. States must have policies, practices and procedures consistent with Title XI.<sup>58</sup>
4. States must have funding and staffing sufficient to carry out their Title XI-related duties.<sup>59</sup>
5. States must use proper designations and permitted scope of practice for certified residential or certified general classifications, and as of July 1, 2013, a State must use the proper designations and permitted scope of practice for the licensed classification, and trainee and supervisor classifications.<sup>60</sup>

<sup>56</sup> Title XI § 1101, 12 U.S.C. 3331; Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>57</sup> Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347.

<sup>58</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>59</sup> *Id.*; Title XI § 1118(b), 12 U.S.C. 3347.

<sup>60</sup> Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1113, 12 U.S.C. 3342; AQB *Real Property Appraiser Qualification Criteria*.

6. State board members, and any persons in policy or decision-making positions, must perform their responsibilities consistent with Title XI.<sup>61</sup>

7. States' certification and licensing requirements must meet the minimum requirements set forth in Title XI.<sup>62</sup>

8. State agencies must be granted adequate authority by the State to maintain an effective regulatory Program in compliance with Title XI.<sup>63</sup>

#### Policy Statement 2

##### *Temporary Practice*

1. States must recognize, on a temporary basis, appraiser credentials issued by another State if the property to be appraised is part of a federally related transaction.<sup>64</sup>

2. State agencies must adhere to mandates and prohibitions as determined by the ASC that deter the imposition of excessive fees or burdensome requirements for temporary practice.<sup>65</sup>

#### Policy Statement 3

##### *National Registry*

1. States must reconcile and pay National Registry invoices in a timely manner.<sup>66</sup>

2. States must submit all disciplinary actions<sup>67</sup> to the ASC for inclusion on the National Registry.<sup>68</sup>

3. As of July 1, 2013, all States will be required to report disciplinary action via the extranet application as soon as practicable.<sup>69</sup>

4. States must designate a high ranking officer, such as an executive director, who will serve as the State's Authorized Registry Official, and must ensure that non-public data is appropriately protected.<sup>70</sup>

5. The State must provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf, and should ensure that the authorization information provided to the ASC is kept current.<sup>71</sup>

6. States using the ASC extranet application must ensure that designated personnel with Username and Password access protect the right of access, and not share the Username or Password with anyone.<sup>72</sup>

7. States must adopt and implement a written policy to adequately protect the right of access, as well as the ASC issued Username and Password.<sup>73</sup>

<sup>61</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>62</sup> Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345.

<sup>63</sup> Title XI § 1118(b), 12 U.S.C. 3347.

<sup>64</sup> Title XI § 1122(a)(1), 12 U.S.C. 3351.

<sup>65</sup> Title XI § 1122(a)(2), 12 U.S.C. 3351.

<sup>66</sup> Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

<sup>67</sup> See Appendix C, *Glossary of Terms*, for the definition of "disciplinary action."

<sup>68</sup> Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

<sup>69</sup> *Id.*

<sup>70</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

8. States must proactively minimize risk of clerical error that may result in inaccurate entries to the National Registry.<sup>74</sup>

9. States must submit appraiser data to the ASC at least monthly. If a State's data does not change during the month, the State agency must notify the ASC of that fact in writing.<sup>75</sup>

10. States must notify the ASC as soon as practicable if it is determined that a credential holder listed on the National Registry does not, or did not, qualify for the credential held.<sup>76</sup>

11. States must notify the ASC as soon as practicable in the event of voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice in order for the ASC to inactivate the appraiser's status on the National Registry.<sup>77</sup>

12. If a State certified or licensed appraiser chooses not to pay the Registry fee, then the Program 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.<sup>78</sup>

#### Policy Statement 4

##### *Application Process*

##### *Processing of Applications*

1. States must process applications in a consistent, equitable and well-documented manner.<sup>79</sup>

2. States must ensure appraiser credential applications submitted for processing do not contain expired examinations as established by AQB Criteria (24-month examination validity period).<sup>80</sup>

##### *Education*

1. States must verify that the applicant's claimed education courses are acceptable under AQB Criteria, whether for initial credentialing, renewal, upgrade or reinstatement.<sup>81</sup>

2. States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement.<sup>82</sup>

3. States must maintain adequate documentation to support verification.<sup>83</sup>

4. States may not accept an affidavit for education claimed from applicants for certification.<sup>84</sup>

5. Effective July 1, 2013, States may not accept an affidavit for education claimed from applicants for any federally recognized credential.<sup>85</sup>

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>80</sup> Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

6. States may not accept an affidavit for continuing education claimed from applicants for reinstatement.<sup>86</sup>

7. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure.<sup>87</sup>

8. Audits of affidavits for continuing education credit claimed must be completed within 60 days from the date the renewed credential is issued.<sup>88</sup>

9. States are required to take remedial action when it is determined that more than ten percent of audited appraiser's affidavits for continuing education credit claimed fail to meet the minimum AQB Criteria.<sup>89</sup>

10. States must require the 7-hour National USPAP Update Course for renewals consistent with AQB Criteria.<sup>90</sup>

#### Experience

1. States may not accept an affidavit for experience credit claimed from applicants for certification.<sup>91</sup>

2. Effective July 1, 2013, States may not accept an affidavit for experience credit claimed from applicants for any federally recognized credential.<sup>92</sup>

3. States must ensure that appraiser experience logs conform to AQB Criteria.<sup>93</sup>

4. States must use a reliable means of validating appraiser experience claims on all initial or upgrade applications for appraiser credentialing.<sup>94</sup>

5. States must select the work product to be analyzed for USPAP compliance on all initial or upgrade applications for appraiser credentialing.<sup>95</sup>

6. States must analyze a representative sample of the applicant's work product on all initial or upgrade applications for appraiser credentialing.<sup>96</sup>

7. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP on all initial applications for appraiser credentialing.<sup>97</sup>

8. Persons analyzing work product for USPAP compliance must have sufficient knowledge to make that determination.<sup>98</sup>

#### Examination

1. States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized credentials requiring an examination.<sup>99</sup>

### Policy Statement 5

#### Reciprocity

1. Effective July 1, 2013, in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI.<sup>100</sup>

2. States may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy; however, States may not impose additional impediments to issuance of reciprocal credentials.<sup>101</sup>

### Policy Statement 6

#### Education

1. States must ensure that appraiser education courses are consistent with AQB Criteria.<sup>102</sup>

2. States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria.<sup>103</sup>

3. States must ensure the delivery mechanism for distance education courses offered by a non-academic provider has been approved by an AQB-approved organization providing approval of course design and delivery (e.g. IDECC).<sup>104</sup>

### Policy Statement 7

#### State Agency Enforcement

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.<sup>105</sup>

2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.<sup>106</sup>

3. States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner.<sup>107</sup>

4. States must track complaints of alleged appraiser misconduct or wrongdoing using an electronic complaint log.<sup>108</sup>

5. States must appropriately document enforcement files and include rationale.<sup>109</sup>

6. States must regulate, supervise and discipline their credentialed appraisers.<sup>110</sup>

7. Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP.<sup>111</sup>

<sup>100</sup> Title XI § 1122(b), 12 U.S.C. 3351.

<sup>101</sup> *Id.*

<sup>102</sup> Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>103</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>104</sup> Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>105</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

### Appendix C—Glossary of Terms

**AQB Criteria:** Refers to the *Real Property Appraiser Qualification Criteria* as established by the Appraiser Qualifications Board of the Appraisal Foundation setting forth minimum education, experience and examination requirements for the licensure and certification of real property appraisers, and minimum requirements for "Trainee" and "Supervisory" appraisers.

**Assignment:** As referenced herein, for purposes of temporary practice, "assignment" means one or more real estate appraisals and written appraisal report(s) covered by a single contractual agreement.

**Complaint:** As referenced herein, any document filed with, received by, or serving as the basis for possible inquiry by the State agency regarding alleged violation of Title XI, Federal or State law or regulation, or USPAP by a credentialed appraiser, appraiser applicant, or for allegations of unlicensed appraisal activity. A complaint may be in the form of a referral, letter of inquiry, or other document alleging appraiser misconduct or wrongdoing.

**Credentialed appraisers:** Refers to State licensed, certified residential or certified general appraiser classifications.

**Disciplinary action:** As referenced herein, corrective or punitive action taken by or on behalf of a State agency which may be formal or informal, or may be consensual or involuntary, resulting in any of the following:

- a. Revocation of credential
- b. Suspension of credential
- c. Written consent agreements, orders or reprimands
- d. Probation or any other restriction on the use of a credential
- e. Fine
- f. Voluntary surrender in lieu of disciplinary action
- g. Other acts as defined by State statute or regulation as disciplinary

With the exception of voluntary surrender, suspension or revocation, such action may be exempt from reporting to the National Registry if defined by State statute, regulation or written policy as "non-disciplinary."

**Federally related transaction:** Refers to any real estate related financial transaction which:

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

(b) Requires the services of an appraiser. (See Title XI § 1121(4), 12 U.S.C. 3350.)

**Federal financial institutions regulatory agencies:** Refers to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration. (See Title XI § 1121(6), 12 U.S.C. 3350.)

**Home State agency:** As referenced herein, State agency or agencies that grant an appraiser a licensed or certified credential. Residency in the home State is not required. Appraisers may have more than one home State agency.

**Non-federally recognized credentials or designations:** Refers to any State appraiser credential or designation other than State licensed, certified residential or certified general classifications, and trainee and

<sup>86</sup> *Id.*

<sup>87</sup> Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>88</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>89</sup> *Id.*

<sup>90</sup> Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>91</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>92</sup> *Id.*

<sup>93</sup> Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>94</sup> Title XI § 1118(a), 12 U.S.C. 3347.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria*.

supervisor classifications as defined in Policy Statement 1, and is not recognized by the federal regulators for purposes of their appraisal regulations.

*Real estate related financial transaction:* 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. (See Title XI § 1121(5), 12 U.S.C. 3350.)

*Special documented circumstances:* As referenced herein, extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: complaints involving investigation by a law enforcement agency such as a criminal investigation when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex fraud cases that involve multiple individuals and reports.

*State:* Any State, Commonwealth, Territory, or Possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands. (American Samoa does not have a Program.)

*State board:* As referenced herein, "State board" means a group of individuals (usually appraisers, bankers, consumers, and/or real estate professionals) appointed by the Governor or a similarly positioned State official to assist State Programs. A State agency may be headed by a board, commission or an individual. Most States have a board (or commission) with responsibilities and authorities varying from State to State.

*Uniform Standards of Professional Appraisal Practice (USPAP):* Refers to appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation establishing minimum requirements for development and reporting of appraisals, including real property appraisal. Title XI requires appraisals prepared by State certified and licensed appraisers to be performed in conformance with USPAP.

#### Appendix D—ASC Bulletins and Supplements

[Appendix D will contain the following ASC Bulletins and Supplements that were issued to assist States in understanding and complying with the self-enabling provisions of the Dodd-Frank Act.]

- Bulletin No. 10–1 issued October 14, 2010 on Modification of Annual National Registry Fee
- Supplement to ASC Bulletin 10–1 dated Oct. 22, 2010
- Bulletin No. 2011–01 issued March 18, 2011 on Statutory Provisions Affecting State Appraiser Regulatory Programs

- Supplement to Bulletin No. 2011–01 issued August 11, 2011 on Mandatory AQB Criteria for State Licensed Appraisers

\* \* \* \* \*

By the Appraisal Subcommittee,

Dated: August 27, 2012.

**Peter Gillispie,**  
*Chairman.*

[FR Doc. 2012–21452 Filed 8–29–12; 8:45 am]

**BILLING CODE 6700–01–P**

#### FEDERAL MARITIME COMMISSION

##### Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 40901 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at [OTI@fmc.gov](mailto:OTI@fmc.gov).

- AAW Global Logistics PTY Ltd. (NVO), Level 3, 55 Wellington Street, Victoria, Saint Kilda 3182 Australia, Officers: Joseph J. Pace, Director, (Qualifying Individual), Barry J. Misiurak, Director, Application Type: New NVO License.
- AOG International, Inc. (NVO & OFF), 4801 Woodway Drive, #371 East, Houston, TX 77056, Officers: J. Shelli Ali, Vice President, (Qualifying Individual), Christina L. Forth-Matthews, President, Application Type: Add NVO Service.
- Boacon Synergy Inc (NVO & OFF), 7933 Mill Creek Circle, West Chester, OH 45069, Officers: Benjamin O. Afolabi, President, (Qualifying Individual), Beatrice O. Afolabi, Secretary, Application Type: Add NVO Service.
- Cane Group Corporation (NVO & OFF), 7241 NW 54th Street, Miami, FL 33166, Officers: Graziella M. Lobato, Director, (Qualifying Individual), Daniel D. Ferraz, Director, Application Type: Add Trade Names
- Kaizen World Freight and KWF Logistics.
- Cars USA, Inc. dba Cars USA Logistics Inc. (OFF), 425 Bush Street, #425, San Francisco, CA 94108–3713, Officers: Fiona Spence, President, (Qualifying

- Individual), Richard Clark, Director, Application Type: New OFF License.
- Ceva Freight, LLC dba EGL Ocean Line dba Ceva Ocean Line (NVO & OFF), 15350 Vickery Drive, Houston, TX 77032, Officers: Johnathon C. Grossgart, Vice President, (Qualifying Individual), Matthew Ryan, President, Application Type: QI Change.
- Ellen Newman Logistics, L.L.C. (OFF), 920 Richmond Drive, Metairie, LA 70003, Officer: Ellen A. Newmn, Member, (Qualifying Individual), Application Type: New OFF License.
- Equipasa Inc. (OFF), 2105 NW 102 Avenue, Miami, FL 33172, Officers: Isabel Montejo, Vice President, (Qualifying Individual), Arthur S. Gelfand, President, Application Type: QI Change.
- Howard Thomas Exports, Inc. dba HTX International (NVO & OFF), 15535 Texaco Avenue, Paramount, CA 90723, Officers: Maximiliaan Hoes, Secretary, (Qualifying Individual), Howard T. Smith, President, Application Type: New NVO & OFF License.
- Merengue Cargo Shipping Inc. (NVO), 11 Sunny Slope Terrace, Yonkers, NY 10703, Officers: Amarelis Robles, President, (Qualifying Individual), Jose O. Perdomo, Vice President, Application Type: New NVO License.
- National Air Cargo, Inc. (NVO & OFF), 350 Windward Drive, Orchard Park, NY 14127, Officers: Richard T. Burke, Jr., Assistant Secretary, (Qualifying Individual), Christopher J. Alf, President, Application Type: New NVO & OFF License.
- New Hope Vehicle Exports LLC (NVO & OFF), 1000 S. Market Street, Wilmington, DE 19801, Officer: Javier Marmol, Member, (Qualifying Individual), Application Type: New NVO & OFF License.
- New Star Freight, Inc. dba American Freight Solutions (NVO & OFF), 14144 Central Avenue, #H, Chino, CA 91710, Officers: Xiaosong Liu, Secretary, (Qualifying Individual), Fei Yu, Director, Application Type: Transfer License to Freight Express Shipping Corporation (FESCO).
- PMJ International Inc (NVO), 519 Mountainview Drive, North Plainfield, NJ 07063, Officer: Pelham Hicks, CEO, (Qualifying Individual), Application Type: New NVO License.
- Sear Cargo Logistics, Inc. (NVO & OFF), 8008 NW 90th Street, Medley, FL 33166, Officer: Joaquin G. Ferrer, President, (Qualifying Individual), Application Type: New NVO & OFF License.
- Tropic Import & Export, Inc. (NVO & OFF), 8338 NW 68th Street, Miami, FL 33166, Officer: Clayde M. Couto,