(b) Study of risk management training program

Not later than end of the 1-year period beginning on August 9, 1989, the Council shall—

(1) conduct a study on the feasibility and appropriateness of establishing a formalized risk management training program designed to lead to the certification of Risk Management Analysts; and

(2) report to the Congress the results of such study.

(Pub. L. 95–630, title X, § 1009A, as added Pub. L. 101–73, title XII, § 1218, Aug. 9, 1989, 103 Stat. 546.)

§ 3310. Establishment of Appraisal Subcommittee

There shall be within the Council a subcommittee to be known as the ''Appraisal Subcommittee'', which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.

(Pub. L. 95–630, title X, § 1011, as added Pub. L. 101–73, title XI, § 1102, Aug. 9, 1989, 103 Stat. 511; amended Pub. L. 111–203, title XIV, § 1473(s), July 21, 2010, 124 Stat. 2199.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(s), July 21, 2010, 124 Stat. 2136, 2199, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) in the first sentence, by inserting '', the Bureau of Consumer Financial Protection, and the Federal Housing Finance Agency'' before the period; and

(2) by inserting ''At all times at least one member of the Appraisal Subcommittee shall have demonstrated knowledge and competence through licensure, certification, or professional designation within the appraisal profession.'' at the end.

See Effective Date of 2010 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3311. Required review of regulations

(a) In general

Not less frequently than once every 10 years, the Council and each appropriate Federal banking agency represented on the Council shall conduct a review of all regulations prescribed by the Council or by any such appropriate Federal banking agency, respectively, in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions.

(b) Process

In conducting the review under subsection (a) of this section, the Council or the appropriate Federal banking agency shall—

(1) categorize the regulations described in subsection (a) of this section by type (such as consumer regulations, safety and soundness regulations, or such other designations as determined by the Council, or the appropriate Federal banking agency); and

(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.

(c) Complete review

The Council or the appropriate Federal banking agency shall ensure that the notice and comment period described in subsection (b)(2) of this section is conducted with respect to all regulations described in subsection (a) of this section not less frequently than once every 10 years.

(d) Regulatory response

The Council or the appropriate Federal banking agency shall—

(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and

(2) eliminate unnecessary regulations to the extent that such action is appropriate.

(e) Report to Congress

Not later than 30 days after carrying out subsection (d)(1) of this section, the Council shall submit to the Congress a report, which shall include—

(1) a summary of any significant issues raised by public comments received by the Council and the appropriate Federal banking agencies under this section and the relative merits of such issues; and

(2) an analysis of whether the appropriate Federal banking agency involved is able to address the regulatory burdens associated with such issues by regulation, or whether such burdens must be addressed by legislative action.

(Pub. L. 104–208, div. A, title II, § 2222, Sept. 30, 1996, 110 Stat. 3009–414.)

CODIFICATION

Section enacted as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Federal Financial Institutions Examination Council Act of 1978 which comprises this chapter.

CHAPTER 34A—APPRAISAL SUBCOMMITTEE OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

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§ 3331. Purpose

The purpose of this chapter is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

(Pub. L. 101–73, title XI, § 1101, Aug. 9, 1989, 103 Stat. 511.)

§ 3332. Functions of Appraisal Subcommittee

(a) In general

The Appraisal Subcommittee shall—

(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies and the Resolution Trust Corporation with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

(4) Omitted.

(b) Monitoring and reviewing foundation

The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

(Pub. L. 101–73, title XI, § 1103, Aug. 9, 1989, 103 Stat. 512; Pub. L. 111–203, title III, § 367(6), title XIV, § 1473(b), (f)(1), July 21, 2010, 124 Stat. 1557, 2190, 2191.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(b), (f)(1), July 21, 2010, 124 Stat. 2136, 2190, 2191, provided that subsection (a) of this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) by amending paragraph (1) to read as follows:

''(1) monitor the requirements established by States—

''(A) for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility; and

''(B) for the registration and supervision of the operations and activities of an appraisal management company;''; and

(2) by adding at the end the following:

''(5) transmit an annual report to the Congress not later than June 15 of each year that describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year. The report shall also detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval and actions taken to achieve compliance.

''(6) maintain a national registry of appraisal management companies that either are registered with and subject to supervision of a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution.''

See Effective Date of 2010 Amendment note below.

Pub. L. 111–203, title III, §§ 351, 367(6), July 21, 2010, 124 Stat. 1546, 1557, provided that, effective on the transfer date, subsection (a) of this section is amended by striking out ''and the Resolution Trust Corporation''. See Effective Date of 2010 Amendment note below.

CODIFICATION

Paragraph (4) of subsection (a), which required the Appraisal Subcommittee to submit an annual report to Congress on the manner in which assigned functions were carried out, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 170 of House Document No. 103–7.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 367(6) of Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

Amendment by section 1473(b), (f)(1), of Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3333. Chairperson of Appraisal Subcommittee; term of Chairperson; meetings

(a) Chairperson

The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) Meetings; quorum; voting

The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

(Pub. L. 101–73, title XI, § 1104, Aug. 9, 1989, 103 Stat. 512; Pub. L. 111–203, title XIV, § 1473(c), July 21, 2010, 124 Stat. 2191.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(c), July 21, 2010, 124 Stat. 2136, 2191, provided that subsection (b) of this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, by inserting ''in public session after notice in the Federal Register, but may close certain portions of these meetings related to personnel and review of preliminary State audit reports,'' after ''shall meet'' and ''The subject matter discussed in any closed or executive session shall be described in the Federal Register notice of the meeting.'' after the final period. See Effective Date of 2010 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3334. Officers and staff

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this chapter consistent with the appointment and compensation practices of the Council.

(Pub. L. 101–73, title XI, § 1105, Aug. 9, 1989, 103 Stat. 512.)

§ 3335. Powers of Appraisal Subcommittee

The Appraisal Subcommittee may, for the purpose of carrying out this chapter, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

(Pub. L. 101–73, title XI, § 1106, Aug. 9, 1989, 103 Stat. 512; Pub. L. 111–203, title XIV, § 1473(d), July 21, 2010, 124 Stat. 2191.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(d), July 21, 2010, 124 Stat. 2136, 2191, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, by inserting ''prescribe regulations in accordance with chapter 5 of title 5 (commonly referred to as the Administrative Procedures Act) after notice and opportunity for comment,'' after ''hold hearings'' and ''Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this chapter) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, real estate agents, and government agencies, and hold meetings as necessary to support the development of regulations.'' at the end. See Effective Date of 2010 Amendment note below.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title XI of Pub. L. 101–73, which is classified principally to this chapter. For complete classification of title XI to the Code, see Tables.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3336. Procedures for establishing appraisal standards and requiring use of certified and licensed appraisers

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

(Pub. L. 101–73, title XI, § 1107, Aug. 9, 1989, 103 Stat. 513.)

§ 3337. Startup funding

(a) In general

For purposes of this chapter, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of $5,000,000 on August 9, 1989. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 3338 of this title or, if required, pursuant to section 3351(b)[1] of this title.

(b) Additional funds

Except as provided in section 3351(b)[1] of this title, funds in addition to the funds provided under subsection (a) of this section may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

(c) Repayment of Treasury loan

Not later than September 30, 1998, the Appraisal Subcommittee shall repay to the Secretary of the Treasury the unpaid portion of the $5,000,000 paid to the Appraisal Subcommittee pursuant to this section.

(Pub. L. 101–73, title XI, § 1108, Aug. 9, 1989, 103 Stat. 513; Pub. L. 104–208, div. A, title II, § 2212, Sept. 30, 1996, 110 Stat. 3009–411.)

REFERENCES IN TEXT

Section 3351(b) of this title, referred to in text, was redesignated section 3351(c) of this title by Pub. L. 103–325, title III, § 315(1), Sept. 23, 1994, 108 Stat. 2222.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–208 added subsec. (c).

§ 3338. Roster of State certified or licensed appraisers; authority to collect and transmit fees

(a) In general

Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this chapter, shall—

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

(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than $25, such fees to be transmitted by the State agencies to the Council on an annual basis.

Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of $50 per annum, as necessary to carry out its functions under this chapter.

(b) Use of amounts appropriated or collected

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

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

(2) to support its activities under this chapter;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following August 9, 1989; and

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

(Pub. L. 101–73, title XI, § 1109, Aug. 9, 1989, 103 Stat. 513; Pub. L. 111–203, title XIV, § 1473(g), (h)(1), (i), July 21, 2010, 124 Stat. 2194, 2195.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(g), (h)(1), (i), July 21, 2010, 124 Stat. 2136, 2194, 2195, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) in subsection (a)—

(A) in paragraph (1), by striking out ''and'' after the semicolon;

(B) by redesignating paragraph (2) as (4);

(C) by inserting after paragraph (1) the following:

''(2) transmit reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee;

''(3) transmit reports on a timely basis of supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including investigations initiated and disciplinary actions taken; and'';

(D) by amending paragraph (4), as so redesignated, to read as follows:

''(4) collect—

''(A) from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than $40, such fees to be transmitted by the State agencies to the Council on an annual basis; and

''(B) from an appraisal management company that either has registered with a State appraiser certifying and licensing agency in accordance with this chapter or operates as a subsidiary of a federally regulated financial institution, an annual registry fee of—

''(i) in the case of such a company that has been in existence for more than a year, $25 multiplied by the number of appraisers working for or contracting with such company in such State during the previous year, but where such $25 amount may be adjusted, up to a maximum of $50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this chapter; and

''(ii) in the case of such a company that has not been in existence for more than a year,

[1] See References in Text note below.

$25 multiplied by an appropriate number to be determined by the Appraisal Subcommittee, and where such number will be used for determining the fee of all such companies that were not in existence for more than a year, but where such $25 amount may be adjusted, up to a maximum of $50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this chapter.''; and

(E) by amending the matter following paragraph (4) to read as follows:

''Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees under paragraph (4)(A), up to a maximum of $80 per annum, as necessary to carry out its functions under this chapter. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees. In establishing the amount of the annual registry fee for an appraisal management company, the Appraisal Subcommittee shall have the discretion to impose a minimum annual registry fee for an appraisal management company to protect against the under reporting of the number of appraisers working for or contracted by the appraisal management company.''; and

(2) in subsection (b)—

(A) in paragraph (3), by striking out ''and'' after the semicolon;

(B) in paragraph (4), by substituting a semicolon for the period at the end; and

(C) by adding at the end the following:

''(5) to make grants to State appraiser certifying and licensing agencies, in accordance with policies to be developed by the Appraisal Subcommittee, to support the efforts of such agencies to comply with this chapter, including—

''(A) the complaint process, complaint investigations, and appraiser enforcement activities of such agencies; and

''(B) the submission of data on State licensed and certified appraisers and appraisal management companies to the National appraisal registry, including information affirming that the appraiser or appraisal management company meets the required qualification criteria and formal and informal disciplinary actions; and

''(6) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.''

See Effective Date of 2010 Amendment note below.

CODIFICATION

Pub. L. 111–203, § 1473(i), which amended this section, also enacted provisions set out as a note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

GRANTS AND REPORTS

Pub. L. 111–203, title XIV, § 1473(i), July 21, 2010, 124 Stat. 2195, provided that:

[Introductory provisions and pars. (1) to (3) amended this section].

''Obligations authorized under this subsection [amending this section] may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the 'Appraisal Subcommittee Account' pursuant to subsection (h) [amending this section and enacting provisions set out as a note under this section].''

INCREMENTAL REVENUES

Pub. L. 111–203, title XIV, § 1473(h)(2), July 21, 2010, 124 Stat. 2195, provided that: ''Incremental revenues collected pursuant to the increases required by this subsection [amending this section] shall be placed in a separate account at the United States Treasury, entitled the 'Appraisal Subcommittee Account'.''

§ 3339. Functions of Federal financial institutions regulatory agencies relating to appraisal standards

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum—

(1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(2) that such appraisals shall be written appraisals.

Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

(Pub. L. 101–73, title XI, § 1110, Aug. 9, 1989, 103 Stat. 514; Pub. L. 111–203, title XIV, § 1473(e)(1), July 21, 2010, 124 Stat. 2191.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(e)(1), July 21, 2010, 124 Stat. 2136, 2191, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) in paragraph (1), by striking ''and'';

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (2) the following:

''(3) that such appraisals shall be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.''

See Effective Date of 2010 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amend-

ment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3340. Time for proposal and adoption of standards

Appraisal standards established under this chapter shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after August 9, 1989.

(Pub. L. 101–73, title XI, § 1111, Aug. 9, 1989, 103 Stat. 514.)

§ 3341. Functions of Federal financial institutions regulatory agencies relating to appraiser qualifications

(a) In general

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 3342 and 3343 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this chapter.

(b) Threshold level

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

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

(1) GAO studies

The Comptroller General of the United States may conduct, under such conditions as the Comptroller General determines appropriate, studies on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b) of this section, taking into account—

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

(B) the possibility of losses to the Deposit Insurance Fund or the National Credit Union Share Insurance Fund;

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

(D) the effect on low-income housing.

(2) Reports to Congress and the appropriate Federal financial institutions regulatory agencies

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

(Pub. L. 101–73, title XI, § 1112, Aug. 9, 1989, 103 Stat. 514; Pub. L. 102–550, title IX, § 954, Oct. 28, 1992, 106 Stat. 3894; Pub. L. 104–208, div. A, title II, § 2704(d)(15)(B), Sept. 30, 1996, 110 Stat. 3009–495; Pub. L. 104–316, title I, § 106(g), Oct. 19, 1996, 110 Stat. 3831; Pub. L. 109–171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, § 9(g)(2), Feb. 15, 2006, 119 Stat. 3618; Pub. L. 111–203, title XIV, § 1473(a), July 21, 2010, 124 Stat. 2190.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(a), July 21, 2010, 124 Stat. 2136, 2190, provided that subsection (b) of this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, by inserting '', and receives concurrence from the Bureau of Consumer Financial Protection that such threshold level provides reasonable protection for consumers who purchase 1–4 unit single-family residences'' before the period. See Effective Date of 2010 Amendment note below.

AMENDMENTS

2006—Subsec. (c)(1)(B). Pub. L. 109–173 substituted ''Deposit Insurance Fund'' for ''Bank Insurance Fund, the Savings Association Insurance Fund,''.

Pub. L. 109–171 repealed Pub. L. 104–208, § 2704(d)(15)(B). See 1996 Amendment note below.

1996—Subsec. (c)(1). Pub. L. 104–316, § 106(g)(1)(A), (2), in heading substituted ''GAO studies'' for ''Study required'', and in text substituted ''The Comptroller General of the United States may conduct, under such conditions as the Comptroller General determines appropriate, studies'' for ''At the end of the 18-month period, and the end of the 36-month period, beginning on October 28, 1992, the Comptroller General of the United States shall conduct a study''.

Subsec. (c)(1)(B). Pub. L. 104–208, § 2704(d)(15)(B), which directed substitution of ''Deposit Insurance Fund'' for ''Bank Insurance Fund, the Savings Association Insurance Fund,'', was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (c)(2). Pub. L. 104–316, § 106(g)(1)(B), substituted ''referred to in'' for ''required under''.

1992—Pub. L. 102–550 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

§ 3342. Transactions requiring services of State certified appraiser

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

(1) a State certified appraiser shall be required for all federally related transactions having a value of $1,000,000 or more; and

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

(Pub. L. 101–73, title XI, § 1113, Aug. 9, 1989, 103 Stat. 514; Pub. L. 111–203, title XIV, § 1473(e)(2), July 21, 2010, 124 Stat. 2191.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(e)(2), July 21, 2010, 124 Stat. 2136, 2191, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, by inserting '', where a complex 1-to-4 unit single family residential appraisal means an appraisal for which the property to be appraised, the form of ownership, the property characteristics, or the market conditions are atypical'' before the period. See Effective Date of 2010 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3343. Transactions requiring services of State licensed appraiser

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

(Pub. L. 101–73, title XI, § 1114, Aug. 9, 1989, 103 Stat. 514.)

§ 3344. Time for proposal and adoption of rules

As appropriate, rules issued under sections 3342 and 3343 of this title shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after August 9, 1989.

(Pub. L. 101–73, title XI, § 1115, Aug. 9, 1989, 103 Stat. 515.)

§ 3345. Certification and licensing requirements

(a) In general

For purposes of this chapter, the term ''State certified real estate appraiser'' means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) Restriction

No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation.

(c) "State licensed appraiser" defined

As used in this section, the term ''State licensed appraiser'' means an individual who has satisfied the requirements for State licensing in a State or territory.

(d) Additional qualification criteria

Nothing in this chapter shall be construed to prevent any Federal agency or instrumentality under this chapter from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

(e) Authority of Appraisal Subcommittee

The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus[1] standard. Recommendations of the Subcommittee shall be nonbinding on the States.

(Pub. L. 101–73, title XI, § 1116, Aug. 9, 1989, 103 Stat. 515; Pub. L. 102–233, title VII, § 701(a), Dec. 12, 1991, 105 Stat. 1792; Pub. L. 102–242, title IV, § 472(a), Dec. 19, 1991, 105 Stat. 2386; Pub. L. 102–550, title XVI, § 1617(a), Oct. 28, 1992, 106 Stat. 4096; Pub. L. 111–203, title XIV, § 1473(j), July 21, 2010, 124 Stat. 2195.)

[1] So in original. Probably should be ''de minimis''.

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(j), July 21, 2010, 124 Stat. 2136, 2195, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) in subsection (c), by inserting ''whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers'' before the period at the end; and

(2) by striking out subsection (e) and adding the following:

''(e) Minimum qualification requirements

''Any requirements established for individuals in the position of 'Trainee Appraiser' and 'Supervisory Appraiser' shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.''

See Effective Date of 2010 Amendment note below.

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–550, § 1617(a), repealed Pub. L. 102–233, § 701(a). See 1991 Amendment note below.

1991—Subsec. (e). Pub. L. 102–242 added subsec. (e) prohibiting Appraisal Subcommittee from setting qualifications or experience requirements, including a de minimis standard.

Pub. L. 102–233, § 701(a), which added subsec. (e) prohibiting Appraisal Subcommittee from setting qualifications or experience requirements, was repealed by Pub. L. 102–550, § 1617(a). See Construction of 1991 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

CONSTRUCTION OF 1991 AMENDMENT

Section 1617(b) of Pub. L. 102–550 provided that: ''No amendments made by title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 [amending this section and section 3348 of this title] shall be deemed to have taken effect before the date of the enactment of this Act [Oct. 28, 1992] and the provisions of law amended by title VII shall continue in effect as if no such amendments had been made by such title.''

§ 3346. Establishment of State appraiser certifying and licensing agencies

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

(Pub. L. 101–73, title XI, § 1117, Aug. 9, 1989, 103 Stat. 515; Pub. L. 111–203, title XIV, § 1473(f)(3), July 21, 2010, 124 Stat. 2193.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(f)(3), July 21, 2010, 124 Stat. 2136, 2193, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, by inserting ''The duties of such agency may additionally include the registration and supervision of appraisal management companies and the addition of information about the appraisal management company to the national registry.'' at the end. See Effective Date of 2010 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3347. Monitoring of State appraiser certifying and licensing agencies

(a) In general

The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this chapter. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this chapter shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this chapter.

(b) Disapproval by Appraisal Subcommittee

The Federal financial institutions,[1] regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this chapter;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this chapter; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this chapter.

(c) Rejection of State certifications and licenses

(1) Opportunity to be heard or correct conditions

Before refusing to recognize a State's appraiser certifications or licenses, the Ap-

[1] So in original. The comma probably should not appear.

praisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) Adoption of procedures

The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) Judicial review

A decision of the subcommittee under this section shall be subject to judicial review.

(Pub. L. 101–73, title XI, § 1118, Aug. 9, 1989, 103 Stat. 515; Pub. L. 111–203, title XIV, § 1473(k), July 21, 2010, 124 Stat. 2196.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(k), July 21, 2010, 124 Stat. 2136, 2196, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) by amending subsection (a) to read as follows:

''(a) In general

''The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purposes of determining whether such agency—

''(1) has policies, practices, funding, staffing, and procedures that are consistent with this chapter;

''(2) processes complaints and completes investigations in a reasonable time period;

''(3) appropriately disciplines sanctioned appraisers and appraisal management companies;

''(4) maintains an effective regulatory program; and

''(5) reports complaints and disciplinary actions on a timely basis to the national registries on appraisers and appraisal management companies maintained by the Appraisal Subcommittee.

The Appraisal Subcommittee shall have the authority to remove a State licensed or certified appraiser or a registered appraisal management company from a national registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration, and disciplinary proceedings. The Appraisal Subcommittee and all agencies, instrumentalities, and Federally recognized entities under this chapter shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, funding, staffing, or procedures are found to be inconsistent with this chapter. The Appraisal Subcommittee shall have the authority to impose sanctions, as described in this section, against a State agency that fails to have an effective appraiser regulatory program. In determining whether such a program is effective, the Appraisal Subcommittee shall include an analysis of the licensing and certification of appraisers, the registration of appraisal management companies, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and appraisal management companies, the investigation of complaints, and enforcement actions against appraisers and appraisal management companies. The Appraisal Subcommittee shall have the authority to impose interim actions and suspensions against a State agency as an alternative to, or in advance of, the derecognition of a State agency.''; and

(2) in subsection (b)(2), by inserting ''or sufficient funding'' after ''authority''.

See Effective Date of 2010 Amendment note below.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title XI of Pub. L. 101–73, which is classified principally to this chapter. For complete classification of title XI to the Code, see Tables.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3348. Recognition of State certified and licensed appraisers for purposes of this chapter

(a) Effective date for use of certified or licensed appraisers only

(1) In general

Not later than December 31, 1992, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this chapter.

(2) Extension of effective date

Subject to the approval of the council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this chapter.

(b) Temporary waiver of appraiser certification or licensing requirements for State having scarcity of qualified appraisers

Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this chapter if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this chapter, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State, or in any geographical political subdivision of a State, leading to significant delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such significant delays have been eliminated.

(c) Reports to State certifying and licensing agencies

The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this chapter, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this chapter.

(Pub. L. 101–73, title XI, § 1119, Aug. 9, 1989, 103 Stat. 516; Pub. L. 102–233, title VII, § 701(b), Dec. 12, 1991, 105 Stat. 1792; Pub. L. 102–242, title IV, § 472(b), Dec. 19, 1991, 105 Stat. 2386; Pub. L. 102–550, title XVI, § 1617(a), Oct. 28, 1992, 106 Stat. 4096; Pub. L. 111–203, title XIV, § 1473(t)(1), July 21, 2010, 124 Stat. 2199.)

AMENDMENT OF SUBSECTION (a)(2)

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(t)(1), July 21, 2010, 124 Stat. 2136, 2199, provided that subsection (a)(2) of this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, by striking ''council,'' and inserting ''Council,''. See Effective Date of 2010 Amendment note below.

AMENDMENTS

1992—Subsecs. (a)(1), (b). Pub. L. 102–550, § 1617(a), repealed Pub. L. 102–233, § 701(b). See 1991 Amendment note below.

1991—Subsec. (a)(1). Pub. L. 102–242, § 472(b)(1), substituted ''December 31, 1992'' for ''July 1, 1991''. Pub. L. 102–233, § 701(b)(1), which made an identical amendment, was repealed by Pub. L. 102–550, § 1617(a). See Construction of 1991 Amendment note below.

Subsec. (b). Pub. L. 102–242, § 472(b)(2), substituted '', or in any geographical political subdivision of a State, leading to significant delays'' for ''leading to inordinate delays'' in first sentence and ''significant'' for ''inordinate'' in second sentence. Pub. L. 102–233, § 701(b)(2), which made an identical amendment, was repealed by Pub. L. 102–550, § 1617(a). See Construction of 1991 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

CONSTRUCTION OF 1991 AMENDMENT

No amendment to this section by section 701 of Pub. L. 102–233 to be deemed to have taken effect before Oct. 28, 1992, and provisions of law amended by such section 701 to continue in effect as if no such amendment had been made, see section 1617(b) of Pub. L. 102–550, set out as a note under section 3345 of this title.

§ 3349. Violations in obtaining and performing appraisals in federally related transactions

(a) Violations

Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 3348(b) of this title, it shall be a violation of this section—

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

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 3350(5) of this title to which such association or corporation is a party.

(b) Penalties

A financial institution that violates subsection (a)(1) of this section shall be subject to civil penalties under section 1818(i)(2) of this title or section 1786(k)(2) of this title, as appropriate.

(c) Proceeding

A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5.

(Pub. L. 101–73, title XI, § 1120, Aug. 9, 1989, 103 Stat. 517.)

§ 3350. Definitions

For purposes of this chapter:

(1) State appraiser certifying and licensing agency

The term ''State appraiser certifying and licensing agency'' means a State agency established in compliance with this chapter.

(2) Appraisal Subcommittee; subcommittee

The terms ''Appraisal Subcommittee'' and ''subcommittee'' mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) Council

The term ''Council'' means the Federal Financial Institutions Examinations Council.

(4) Federally related transaction

The term ''federally related transaction'' means any real estate-related financial transaction which—

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

(B) requires the services of an appraiser.

(5) Real estate related financial transaction

The term ''real estate-related financial transaction'' means any transaction involving—

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

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

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

(6) Federal financial institutions regulatory agencies

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

(7) Financial institution

The term ''financial institution'' means an insured depository institution as defined in section 1813 of this title or an insured credit union as defined in section 1752 of this title.

(8) Chairperson

The term ''Chairperson'' means the Chairperson of the Appraisal Subcommittee selected by the council.[1]

(9) Foundation

The terms ''Appraisal Foundation'' and ''Foundation'' means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) Written appraisal

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

(Pub. L. 101–73, title XI, § 1121, Aug. 9, 1989, 103 Stat. 517; Pub. L. 111–203, title XIV, § 1473(f)(4), (t)(2), (3), July 21, 2010, 124 Stat. 2193, 2199.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(f)(4), (t)(2), (3) July 21, 2010, 124 Stat. 2136, 2193, 2199, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) in paragraph (6), by striking ''Corporations,'' and inserting ''Corporation,'';

(2) in paragraph (8), by striking ''council'' and inserting ''Council''; and

(3) by adding at the end the following:

''(11) Appraisal management company

''The term 'appraisal management company' means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year—

''(A) to recruit, select, and retain appraisers;

''(B) to contract with licensed and certified appraisers to perform appraisal assignments;

''(C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

''(D) to review and verify the work of appraisers.''

See Effective Date of 2010 Amendment note below.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3351. Miscellaneous provisions

(a) Temporary practice

(1) In general

A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

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

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

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

(2) Fees for temporary practice

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

(b) Reciprocity

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

(c) Supplemental funding

Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's[1] functions under this chapter.

[1] So in original. Probably should be capitalized.

[1] So in original. Probably should be capitalized.

(d) Prohibition against discrimination

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

(e) Other requirements

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

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(f) Studies

(1) Study

The Appraisal Subcommittee shall—

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

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

(2) Report

The Appraisal Subcommittee shall—

(A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after August 9, 1989, and

(B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after August 9, 1989.

(Pub. L. 101–73, title XI, § 1122, Aug. 9, 1989, 103 Stat. 518; Pub. L. 103–325, title III, § 315, Sept. 23, 1994, 108 Stat. 2222; Pub. L. 111–203, title XIV, § 1473(*l*)–(p), (t)(4), July 21, 2010, 124 Stat. 2196, 2197, 2199.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1473(l)–(p), (t)(4), July 21, 2010, 124 Stat. 2136, 2196, 2197, 2199, provided that this section is amended, effective on the date on which final regulations implementing such amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date:

(1) in subsection (a)(1) by moving the left margin of subparagraphs (A), (B), and (C) 2 ems to the right;

(2) by amending subsec. (b) to read as follows:

''(b) Reciprocity

''Notwithstanding any other provisions of this chapter, a federally related transaction shall not be appraised by a certified or licensed appraiser unless the State appraiser certifying or licensing agency of the State certifying or licensing such appraiser has in place a policy of issuing a reciprocal certification or license for an individual from another State when—

''(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this chapter; and

''(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.'';

(3) in subsection (c), by substituting ''Financial Institutions Examination Council'' for ''Federal Financial Institutions Examination Council'' and ''the Council's functions'' for ''the council's functions'';

(4) in subsection (d), by substituting ''may include education achieved, experience, sample appraisals, and references from prior clients. Membership in a nationally recognized professional appraisal organization may be a criteria considered, though lack of membership therein shall not be the sole bar against consideration for an assignment under these criteria.'' for ''shall not exclude'' and all that follows through the end; and

(5) by adding at the end the following:

''(g) Appraiser independence monitoring

''The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purpose of determining whether such agency's policies, practices, and procedures are consistent with the purposes of maintaining appraiser independence and whether such State has adopted and maintains effective laws, regulations, and policies aimed at maintaining appraiser independence.

''(h) Approved education

''The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board's Course Approval Program.

''(i) Appraisal complaint national hotline

''If, 6 months after July 21, 2010, the Appraisal Subcommittee determines that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, the Appraisal Subcommittee shall establish and operate such a national hotline, which shall include a toll-free telephone number and an email address. If the Appraisal Subcommittee operates such a national hotline, the Appraisal Subcommittee shall refer complaints for further action to appropriate governmental bodies, including a State appraiser certifying and licensing agency, a financial institution regulator, or other appropriate legal authorities. For complaints referred to State appraiser certifying and licensing agencies or to Federal regulators, the Appraisal Subcommittee

shall have the authority to follow up such complaint referrals in order to determine the status of the resolution of the complaint.''

See Effective Date of 2010 Amendment note below.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–325, § 315(3), redesignated existing provisions as par. (1), inserted heading, redesignated former pars. (1) to (3) as subpars. (A) to (C) of par. (1), and added par. (2).

Subsecs. (b) to (f). Pub. L. 103–325, § 315(1), (2), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

§ 3352. Emergency exceptions for disaster areas

(a) In general

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

(1) makes the exception not later than 30 months after the date on which the President determines, pursuant to section 5170 of title 42, that a major disaster exists in the area; and

(2) determines that the exception—

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

(B) is consistent with safety and soundness.

(b) 3-year limit on exceptions

Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1) of this section.

(c) Publication required

Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement that—

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

(2) explains how the exception—

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

(B) is consistent with safety and soundness.

(d) "Disaster area" defined

For purposes of this section, the term ''disaster area'' means an area in which the President, pursuant to section 5170 of title 42, has determined that a major disaster exists.

(Pub. L. 101–73, title XI, § 1123, as added Pub. L. 102–485, § 2, Oct. 23, 1992, 106 Stat. 2771.)

§ 3353. Appraisal management company minimum requirements

(a) In general

The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection shall jointly, by rule, establish minimum requirements to be applied by a State in the registration of appraisal management companies. Such requirements shall include a requirement that such companies—

(1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates;

(2) verify that only licensed or certified appraisers are used for federally related transactions;

(3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and

(4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 1639e of title 15.

(b) Relation to State law

Nothing in this section shall be construed to prevent States from establishing requirements in addition to any rules promulgated under subsection (a).

(c) Federally regulated financial institutions

The requirements of subsection (a) shall apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency. An appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a Federal financial institution regulatory agency shall not be required to register with a State.

(d) Registration limitations

An appraisal management company shall not be registered by a State or included on the national registry if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Additionally, each person that owns more than 10 percent of an appraisal management company shall be of good moral character, as determined by the State appraiser certifying and licensing agency, and shall submit to a background investigation carried out by the State appraiser certifying and licensing agency.

(e) Reporting

The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bu-

reau of Consumer Financial Protection shall jointly promulgate regulations for the reporting of the activities of appraisal management companies to the Appraisal Subcommittee in determining the payment of the annual registry fee.

(f) Effective date

(1) In general

No appraisal management company may perform services related to a federally related transaction in a State after the date that is 36 months after the date on which the regulations required to be prescribed under subsection (a) are prescribed in final form unless such company is registered with such State or subject to oversight by a Federal financial institutions regulatory agency.

(2) Extension of effective date

Subject to the approval of the Council, the Appraisal Subcommittee may extend by an additional 12 months the requirements for the registration and supervision of appraisal management companies if it makes a written finding that a State has made substantial progress in establishing a State appraisal management company registration and supervision system that appears to conform with the provisions of this chapter.

(Pub. L. 101–73, title XI, § 1124, as added Pub. L. 111–203, title XIV, § 1473(f)(2), July 21, 2010, 124 Stat. 2192.)

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1601 of Title 15, Commerce and Trade.

§ 3354. Automated valuation models used to estimate collateral value for mortgage lending purposes

(a) In general

Automated valuation models shall adhere to quality control standards designed to—

(1) ensure a high level of confidence in the estimates produced by automated valuation models;

(2) protect against the manipulation of data;

(3) seek to avoid conflicts of interest;

(4) require random sample testing and reviews; and

(5) account for any other such factor that the agencies listed in subsection (b) determine to be appropriate.

(b) Adoption of regulations

The Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection, in consultation with the staff of the Appraisal Subcommittee and the Appraisal Standards Board of the Appraisal Foundation, shall promulgate regulations to implement the quality control standards required under this section.

(c) Enforcement

Compliance with regulations issued under this subsection shall be enforced by—

(1) with respect to a financial institution, or subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency, the Federal financial institution regulatory agency that acts as the primary Federal supervisor of such financial institution or subsidiary; and

(2) with respect to other participants in the market for appraisals of 1-to-4 unit single family residential real estate, the Federal Trade Commission, the Bureau of Consumer Financial Protection, and a State attorney general.

(d) Automated valuation model defined

For purposes of this section, the term ''automated valuation model'' means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling.

(Pub. L. 101–73, title XI, § 1125, as added Pub. L. 111–203, title XIV, § 1473(q), July 21, 2010, 124 Stat. 2198.)

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1601 of Title 15, Commerce and Trade.

§ 3355. Broker price opinions

(a) General prohibition

In conjunction with the purchase of a consumer's principal dwelling, broker price opinions may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property.

(b) Broker price opinion defined

For purposes of this section, the term ''broker price opinion'' means an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 3354(c)[1] of this title.

(Pub. L. 101–73, title XI, § 1126, as added Pub. L. 111–203, title XIV, § 1473(r), July 21, 2010, 124 Stat. 2198.)

REFERENCES IN TEXT

Section 3354(c) of this title, referred to in subsec. (b), probably means section 3354(d) of this title, which defines ''automated valuation model''.

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1601 of Title 15, Commerce and Trade.

[1] See References in Text note below.

CHAPTER 35—RIGHT TO FINANCIAL PRIVACY

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§ 3401. Definitions

For the purpose of this chapter, the term—

(1) ''financial institution'', except as provided in section 3414 of this title, means any office of a bank, savings bank, card issuer as defined in section 1602(n) of title 15, industrial loan company, trust company, savings association, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) ''financial record'' means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution;

(3) ''Government authority'' means any agency or department of the United States, or any officer, employee, or agent thereof;

(4) ''person'' means an individual or a partnership of five or fewer individuals;

(5) ''customer'' means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name;

(6) ''holding company'' means—

(A) any bank holding company (as defined in section 1841 of this title);

(B) any company described in section 1843(f)(1) of this title; and

(C) any savings and loan holding company (as defined in the Home Owners' Loan Act [12 U.S.C. 1461 et seq.]);

(7) ''supervisory agency'' means with respect to any particular financial institution, holding company, or any subsidiary of a financial institution or holding company, any of the following which has statutory authority to examine the financial condition, business operations, or records or transactions of that institution, holding company, or subsidiary—

(A) the Federal Deposit Insurance Corporation;

(B) Director,[1] Office of Thrift Supervision;

(C) the National Credit Union Administration;

(D) the Board of Governors of the Federal Reserve System;

(E) the Comptroller of the Currency;

(F) the Securities and Exchange Commission;

(G) the Commodity Futures Trading Commission;

(H) the Secretary of the Treasury, with respect to the Bank Secrecy Act (Public Law 91–508, title I) [12 U.S.C. 1951 et seq.] and subchapter II of chapter 53 of title 31; or

(I) any State banking or securities department or agency; and

(8) ''law enforcement inquiry'' means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant thereto.

(Pub. L. 95–630, title XI, § 1101, Nov. 10, 1978, 92 Stat. 3697; Pub. L. 101–73, title VII, § 744(b), title IX, § 941, Aug. 9, 1989, 103 Stat. 438, 496; Pub. L. 101–647, title XXV, § 2596(c), Nov. 29, 1990, 104 Stat. 4908; Pub. L. 106–102, title VII, § 727(b)(1), Nov. 12, 1999, 113 Stat. 1475; Pub. L. 108–177, title III, § 374(b), Dec. 13, 2003, 117 Stat. 2628; Pub. L. 111–203, title X, § 1099(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENT OF SECTION

Pub. L. 111–203, title X, §§ 1099(1), 1100H, July 21, 2010, 124 Stat. 2105, 2113, provided that, effective on the designated transfer date, this section is amended:

(1) in paragraph (6)—

(A) in subparagraph (A), by inserting ''and'' after the semicolon;

(B) in subparagraph (B), by striking out ''and'' at the end; and

(C) by striking out subparagraph (C); and

(2) in paragraph (7), by striking out subparagraph (B), and adding the following:

''(B) the Bureau of Consumer Financial Protection;''.

See Effective Date of 2010 Amendment note below.

REFERENCES IN TEXT

The Home Owners' Loan Act, referred to in par. (6)(C), is act June 13, 1933, ch. 64, 48 Stat. 128, as amended, which is classified generally to chapter 12 (§ 1461 et seq.) of this title. For complete classification of this Act to the Code, see section 1461 of this title and Tables.

The Bank Secrecy Act, referred to in par. (7)(H), is title I of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1114, as amended, which is classified principally to chapter 21 (§ 1951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1951 of this title and Tables.

CODIFICATION

In par. (7)(H), ''the Bank Secrecy Act (Public Law 91–508, title I) [12 U.S.C. 1951 et seq.] and subchapter II

[1] So in original. Probably should be ''the Director,''.