ARIZONA BOARD OF APPRAISAL

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May 30, 2014

Mr. Gerard Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: Minimum Requirements for Appraisal Management Companies
RIN 3133-AE22

Dear Secretary Poliquin:

In response to your request for comments regarding the proposed rules referenced herein, the Board of Appraisal for the State of Arizona offers the attached document. The Board encourages action being taken in the near future for proposed rules to address "customary and reasonable fees", as well as a definition of "appropriate appraisal review" to comply with section 1473 of the Dodd-Frank Act.

If you have questions regarding the attached response please feel free to contact me at (602) 542-1593.

Yours truly,

Debra Rudd

Debra Rudd
Executive Director

Enclosure

Arizona Board of Appraisal response to the request for comments regarding Minimum Requirements for Appraisal Management Companies

Question 1 – Proposed definition of AMC

The proposed definition of AMC is clear and although different, appears to comport with our definition of this same term in our statute. Our statute defines *Appraisal Management Company* as a corporation, partnership, sole proprietorship, subsidiary or other business entity that directly or indirectly performs appraisal management services, regardless of the term "appraisal management company", "mortgage technology provider", lender processing services", "lender services", "loan processor", "mortgage services", "real estate closing provider", "settlement services provider", "vendor management company", or any other term, and that does the following: (a) Administers an appraiser panel of independent contract appraisers to perform real property appraisal services in this state for clients. (b) Receives requests for real property appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real property appraisal services contained in the request. (c) Otherwise serves as a third party liaison of appraisal management services between clients and appraisers.

Question 2 – Proposed definition of "appraiser network or panel" and on the alternative of defining this term to include employees as well as independent contractors.

The terms are clear between those that actually perform appraisal services and those who select appraisers to perform appraisal services. The definition for "appraisal firms" and "hybrid firms or entities" is also clear, denoting those companies who have both employees to perform appraisals and those who engage independent contractors to perform appraisals, are to be treated as an AMC.

The request to comment whether a definition of "independent contractor" is necessary, the IRS publication 1779 provides sufficient clarity thus an additional definition is not necessary.

Question 3 – The Agencies request comment on the distinction the Agencies have drawn between employees and independent contractors as a basis for exclusion of appraisal firms from the definition of an AMC.

Again, the definition between those who perform appraisal services versus those who engage others to perform appraisal services is clear. Whether they are employees of an appraisal firm or independent contractors would require further tests as shown in the IRS publication mentioned above. Our State does not appear to have one definition of an independent contractor or employee. However, employment compensation attorneys have cited administrative law judgments that mirror the IRS definitions for these terms.

Question 4 – Should NCUA and insured credit unions be removed from federally related AMC's? We have no comment.

Question 5 – Is the proposed definition of "secondary mortgage market participant" appropriate? Is there any need for more or less clarity?

The definition is clear and needs no further additions or clarifications.

Question 6 – The Agencies request comment on the proposed minimum requirements for State registration and supervision of AMC's.

Having experienced registration and supervision of AMCs in our State for the past four years, a question of how many layers of ownership should be checked to determine if they are of "good moral character", or if they have ever had an appraisal license revoked, or voluntarily surrendered, has been an issue for us. We have companies that are 100% owned by other companies. Do we continue to check on this next layer of ownership until we uncover an actual person's background? We request clarity on this issue.

Question 7 – The Agencies request comment on the proposed approach to the appraisal review issue.

Dodd-Frank was clear that 100% of the appraisals are to be reviewed for USPAP compliance. To our knowledge the only way this can be achieved is by a Standard 3 review. Administrative reviews can be completed by a computer program to check on facts in the appraisal. However, to determine whether an appraisal is credible, which is part of USPAP, requires more than just fact checking. It requires knowledge of appraisal methodology, competency, and independent judgment of another's work. A Standard 3 review need not be complex, or costly, depending on the appraised property.

Questions 8 & 9 – The combined questions ask about barriers our State may experience in implementing the proposed AMC rules.

We have been registering and supervising Appraisal Management Companies for the past four years. There appears to be two areas that may require additional procedures to be developed in our State after reviewing the proposed AMC rules. (a) Having a system in place to examine the books of an AMC, and (b) "Complying with any contractual review provisions". We ask to what purpose our State should examine the AMC's books. Is this to verify timely payment of appraisal fees to appraisers? Are we to determine the financial viability of the AMC? Is there a standard we should follow?

The examination of the AMC records for compliance with using licensed/certified appraisers, how they determine if the appraisal is USPAP compliant, and what processes they use to ensure appraisers qualifications and compliance with Appraisal Independence Requirements (AIR), is clear. It is also understood the State should be looking at the AMC's standard for removing an appraiser from their panel. However, the term "compliance of any contractual review provisions" is unclear, thus we request additional clarification.

Question 10 – Are there any barriers to a State collecting information on Federally regulated AMCs and submitting such information to the ASC?

Yes, we do have issues with collecting information on federally regulated AMCs who elect to not register with our State. This rule has not been anticipated in our State and appears to be asking the State to provide information to the National Registry on what may well be the largest AMCs without being able to charge a fee to do so. This is an unfunded mandate that is not fair to our State nor is it fair to the other AMCs who must pay for the same service. Our statute would need to be revised once again to allow us to charge a fee to provide this service for an unregistered company.

Question 11 asked if there are any questions raised by any differences between State laws and the proposed AMC rules, and if so, how?

Other than those addressed previously in this document, we are aware of no differences.