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SUNRISE REPORT

APPRAISAL MANAGEMENT COMPANIES

AUDIT OVERVIEW

The Legislative Auditor Recommends That the Legislature Establish Registration of Appraisal Management Companies by the West Virginia Real Estate Appraiser Licensing and Certification Board In Order to Comply With Federal Law



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EXECUTIVE SUMMARY

A sunrise application from the West Virginia Real Estate Appraiser Licensing and Certification Board (Board) was submitted to the Joint Committee on Government Organization requesting licensure for appraisal management companies (AMCs) within West Virginia. The Legislative Auditor concludes that registration of these entities will be sufficient to comply with the minimum requirements set forth in the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

Report Highlights:

Finding: The Legislative Auditor Recommends That the Legislature Establish Registration of Appraisal Management Companies by the West Virginia Real Estate Appraiser Licensing and Certification Board In Order to Comply With Federal Law.

- The Dodd-Frank Act would prohibit AMCs not registered by the State from performing services involving federally-related transactions, including FHA, VA, USDA, Fannie Mae and Freddie Mac transactions.
- Thirty-five states have either enacted AMC regulation legislation or have legislation pending, including all five contiguous states to West Virginia.
- While the Board is requesting licensure of AMCs, the Legislative Auditor finds that registration of these entities is sufficient to both comply with federal law and adequately protect the public.
- The Legislative Auditor finds that online AMCs are a growing trend in recent years and needs to be included in legislation in order to protect the public and prevent a loss of revenue for the State.
- The lack of specific definitions in statute of the three regulation designations of registration, certification, and licensure may cause some confusion.

Recommendations:

1. *The Legislative Auditor recommends that the Legislature establish the registration of appraisal management companies by the West Virginia Real Estate Appraiser Licensing and Certification Board in order to comply with recently passed federal regulations.*
2. *The Legislative Auditor recommends that the Legislature consider including online AMC portals within the AMC legislation so that these sources of AMC activities are regulated.*
3. *The Legislative Auditor recommends that the Legislature consider defining the three regulatory designations – registration, certification, and licensure - statutorily in the general provisions of Chapter 30 in order to legally clarify the differences in regulation.*

Finding

The Legislative Auditor Recommends That the Legislature Establish Registration of Appraisal Management Companies by the West Virginia Real Estate Appraiser Licensing and Certification Board In Order to Comply With Federal Law.

Summary

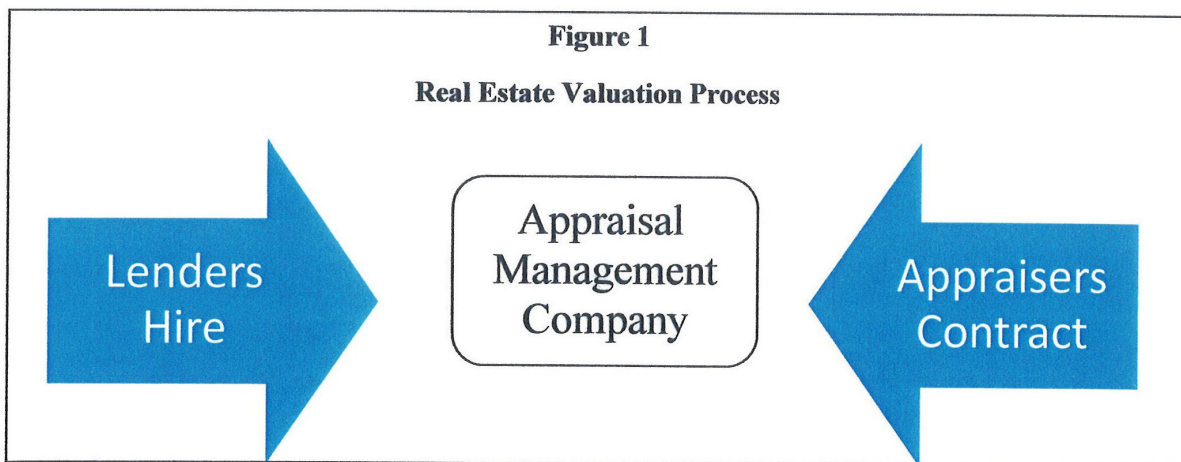
In accordance with West Virginia Code §30-1A-3, a Sunrise application was submitted by the West Virginia Real Estate Appraiser Licensing and Certification Board (Board) for the licensure of appraisal management companies (AMCs) within the state of West Virginia. The request is in response to passage of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, which became law in July 2010. This law requires all states to establish state registration for AMCs within 36 months after issuance of final regulations implementing Dodd-Frank requirements. Final federal regulations have not yet been issued; however, it is expected that all states must have AMC registration laws in effect by 2015. The Board would like to have West Virginia regulatory laws in place by 2014. Thirty states have passed AMC regulations, and five states have legislation pending. The state registration of AMCs is important because unregistered AMCs will ultimately be prohibited from performing services within West Virginia involving federally-related transactions, such as FHA, VA, USDA, Fannie Mae and Freddie Mac transactions. **Thus, the Legislative Auditor recommends that the Legislature establish registration by the West Virginia Real Estate Appraiser Licensing and Certification Board of AMCs operating in West Virginia.**

The state registration of AMCs is important because unregistered AMCs will ultimately be prohibited from performing services within West Virginia involving federally-related transactions, such as FHA, VA, USDA, Fannie Mae and Freddie Mac transactions.

Definition of an Appraisal Management Company

The federal government defines appraisal management companies as any third-party entity that oversees a network or panel of more than 15 certified or licensed appraisers in a given state or 25 or more appraisers nationally within a given year. Appraisal management companies are generally hired either by a creditor or an underwriter of a mortgage to conduct an appraisal. Thus, AMCs are essentially an intermediary between the lender and the appraiser. Figure 1 shows the valuation process in which AMCs are utilized. Each state with AMC regulations individually defines what an AMC is; however, most states are similar to how the Dodd-Frank Act defines them. The Dodd-Frank Act defined the activities that AMCs engage in. These include:

- to recruit, select and retain appraisers;
- to contract with licensed and certified appraisers to perform appraisal assignments;
- 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; and
- to review and verify the work of appraisers.



The Federal Dodd-Frank Wall Street Reform and Consumer Protection Act Requires Each Individual State to Regulate Appraisal Management Companies

In July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act was passed. The Act requires all states to establish a regulatory program for AMCs. States will have approximately 36 months to establish an AMC regulatory program after issuance of final federal regulations implementing Dodd-Frank requirements. These final regulations have not yet been issued.

The Dodd-Frank Act requires all states to establish a regulatory program for AMCs.

The Dodd-Frank legislation mandates that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the FDIC, 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 that AMCs:

- register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which the company operates;
- verify that only licensed or certified appraisers are used for federally-related transactions;
- require that appraisals coordinated by an AMC comply with the Uniform Standards of Professional Appraisal Practice; and
- require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129 of the Truth in Lending Act.

Federal legislation also dictates two distinct limitations in qualifying for AMC registration. These are:

- 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 (Dodd-Frank Act, SEC. 1124).
- 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 (Dodd-Frank Act, SEC. 1124).

This suggests that West Virginia, at the latest, is required to have AMC regulations in place 36 months from that date, which would be by January 21, 2016.

According to legal counsel from Legislative Services, the timeline set forth in the Dodd-Frank Act indicates that these minimum requirements must be promulgated within 18 months of July 21, 2011; thus, the minimum federal requirements must be prescribed in final form no later than January 21, 2013. **This suggests that West Virginia, at the latest, is required to have AMC regulations in place 36 months from that date, which would be by January 21, 2016.** A 12 month extension may be granted if a state shows it has made substantial progress toward regulation implementation. If West Virginia does not have AMC regulations in place, federal law will prohibit AMCs not registered by the state from participating in financial transaction involving federal entities

such as VA, FHA, USDA, Fannie Mae, or Freddie Mac loans.

A Majority of States Have Already Passed AMC Regulation Legislation or Have Pending Legislation

Thirty states have already passed AMC regulation legislation, and five other states have pending legislation. Table 1 highlights the states that have passed or have pending legislation, the year the legislation passed, and the licensing fees. It must be noted that the five contiguous states to West Virginia all have either passed or have pending AMC regulation. Licensing fees range from a low of \$150/biennially in California to a high of \$3,500/annually in Alabama and North Carolina.

Thirty states have already passed AMC regulation legislation, and five other states have pending legislation.

Table 1
States with Appraisal Management Company Legislation

State	Year Legislation Passed	Licensing Fee
Alabama	2011	\$3,500/annually
Arizona	2010	\$2,500/biennially
Arkansas	2009	\$500/annually
California	2009	\$150/biennially
Connecticut	2010	\$1,000/biennially
Florida	2010	\$450/annually
Georgia	2010	\$1,000 initial fee; \$500/annually
Illinois	2011	*Proposed: \$3,500 initial fee; \$3,000/annually
Indiana	2010	\$500/biennially
Kentucky	2011	*Proposed: \$3,500/annually
Louisiana	2009	\$1,500/annually
Maryland	2011	*Proposed: \$2,500/annually
Massachusetts	Pending	N/A
Minnesota	2010	\$5,150 initial fee; \$2,650/annually
Mississippi	2011	\$500/annually; Proposed increase to \$1,500-\$2,500/annually
Missouri	2010	Not yet established
Montana	2011	\$2,000 initial fee; Sliding scale based on number of yearly appraisals: \$1,000 for AMCs ordering <1,000 appraisals; \$3,000 for AMCs ordering >1,000 appraisals

Table 1
States with Appraisal Management Company Legislation

Nebraska	2011	\$2,000 initial fee; \$1,500 biennially
Nevada	2009	\$2,500 initial fee; \$500/annually
New Hampshire	Pending	N/A
New Jersey	Pending	N/A
New Mexico	2009	\$1,000 initial fee; \$550/annually
North Carolina	2010	\$3,500/annually
Ohio	Pending	N/A
Oklahoma	2010	\$1,000/annually
Oregon	2011	Sliding scale based on number of yearly appraisals: •<1,000: \$1,000 initial fee, \$1,500 biennially •1,000-5,000: \$1,500 initial fee, \$3,500/ biennially •>5,000: \$2,000 initial fee, \$6,000/biennially
Pennsylvania	2012	Not registering or setting fees until 8/2012
South Carolina	Pending	N/A
South Dakota	2011	\$1,000 initial fee; \$750/annually
Tennessee	2010	\$2,000/biennially
Texas	2011	*Proposed: \$4,000 initial fee biennially; \$3,600/biennially
Utah	2009	\$350/annually
Vermont	2010	\$150 initial fee; \$500/biennially
Virginia	2010	Not registering or setting fees until 7/1/2014
Washington	2010	\$2,400 initial fee; \$1,200/biennially

Source: WV Real Estate Appraiser Licensing and Certification Board, and the Appraisal Institute (Unaudited)
*Legislation passed but final fee promulgation pending

The Legislative Auditor Finds That Registration Will Meet the Current Requirements of the Dodd-Frank Act

In the Sunrise application, the Real Estate Appraiser Licensing and Certification Board requested that AMCs in West Virginia be *licensed*. In further correspondence with the Legislative Auditor, the Executive Director of the Board identified two reasons the Board is requesting licensure (Appendix B). The Executive Director's concerns are as follows:

1. The Executive Director expressed concern that registration would not meet federal guidelines and that per the definition provided in the sunrise application, any person would be allowed to engage in the occupation as long as they submitted necessary information to the Board.
2. The Executive Director expressed concern that the Board would not be able to discipline AMCs with registration. She stated that ... "*supervision*" in federal terms refers to the ability to "*discipline*." *The federal government will expect that AMCs be subject to "supervision" in specific areas once all requirements are finalized at the federal level.*"

The Legislative Auditor has determined that registration of these entities would prove adequate in complying with the current minimum requirements laid out by the Dodd-Frank Act.

However, the Legislative Auditor has determined that *registration* of these entities would prove adequate in complying with the current minimum requirements laid out by the Dodd-Frank Act. Legal counsel of the Legislative Services Division within the Office of the Legislative Manager reviewed the Board's reasons for requesting licensure and provided an opinion as to whether registration would fulfill the requirements of the Dodd-Frank Act (Appendix C). Legislative Services stated that West Virginia Code §30-1-8(c) would give the Board the authority to promulgate rules setting forth the criteria for companies to qualify for registration. These rules would necessarily include the federal definition of an AMC. Legal counsel stated that:

...the definition of AMC makes clear that not just anybody could seek registration as an AMC, but that such a company would need, at the least, a panel of 15 or more appraisers who have already been certified or licensed by the board. Therefore, the board's concern that under a registration system "any person would be allowed to engage in the occupation by submitting information" is inaccurate.

Additionally, legal counsel pointed out that registration would not require the applicant to obtain an educational requirement or pass an examination to qualify which is a distinction of licensure. As far as the Executive Director's concern that the Board would not be able to supervise AMCs, West Virginia Code §30-1-8(f) gives the Board authority to revoke

a registration after a hearing has been held. Therefore, Legislative Services legal counsel stated that nothing would prevent the Board from supervising or disciplining AMCs with a designation of registration. Counsel concluded that there was no reason why the Board would not be in compliance with the Dodd-Frank Act by registering rather than licensing AMCs. **As a result, the Legislative Auditor finds that registration of AMCs would be adequate to comply with federal laws, grant the Board authority to place further requirements on AMCs, and supervise and/or discipline AMCs when necessary.**

The Legislature Should Consider Including Internet-Based Appraisal Management Companies Into State Legislation

The Legislative Auditor found that other states are currently dealing with Internet-based AMCs, a growing trend in recent years. These AMCs are being used as portals to match appraisers with appraisal openings and often do not fall under the typical definition in legislation. The Board has expressed interest in seeing these internet portals included in state regulation. The Legislative Auditor agrees that the Legislature should address internet-based AMCs in any proposed legislation in order to ensure registration of all forms of the industry. The consequence of not having these internet-based AMCs regulated is a potential loss of revenue for the state. To combat this problem, the Legislative Auditor recommends including the following definitions in what comprises an AMC:

1. AMCs include entities that provide a database system for third party connection of real estate property appraisers with users of appraisal, appraisal review, and appraisal consulting services.
2. AMCs include entities that provide software by sale or lease that is used to connect real estate property appraisers with the users of valuation services.

The Legislature Should Consider Defining Regulation Designations in Statute

In correspondence with the Executive Director for the Real Estate Appraiser Licensing and Certification Board, she cited the definitions provided in the Sunrise Review Application as criteria for requesting licensure of AMCs. Legal counsel from Legislative Services stated that she could not find any statutory definition of the three regulation designations which are registration, certification, and licensure. A lack of definitions may cause some confusion in the regulatory authority considering the difference of opinion between Legislative Services legal counsel and the Real Estate Appraiser Licensing and Certification Board. Thus, the Legislative Auditor recommends that the Legislature should

Therefore, Legislative Services legal counsel stated that nothing would prevent the Board from supervising or disciplining AMCs with a designation of registration.

Legal counsel from Legislative Services stated that she could not find any statutory definition of the three regulation designations which are registration, certification, and licensure.

consider defining the three designations in statute in order to legally clarify the differences in regulation.

Conclusion

The Legislative Auditor has determined that appraisal management companies in West Virginia should be registered by the Real Estate Appraiser Licensing and Certification Board in order to comply with the federal Dodd-Frank Act of 2010. This registration must be enacted within 36 months of the issuance of federal regulations. It is estimated that state AMCs will need to be regulated no later than 2015. While the Real Estate Appraiser Licensing and Certification Board requested licensure, the federal law specifies registration and the Legislative Auditor finds that registration of AMCs would be adequate to comply with the federal law, grant the Board authority to place further requirements on AMCs, and supervise and/or discipline AMCs when necessary.

Recommendations

1. *The Legislative Auditor recommends that the Legislature establish the registration of appraisal management companies by the West Virginia Real Estate Appraiser Licensing and Certification Board to comply with the federal Dodd-Frank Act.*
2. *The Legislative Auditor recommends that the Legislature consider including online AMC portals within the AMC legislation so that these sources of AMC activities are regulated.*
3. *The Legislative Auditor recommends that the Legislature consider defining the three regulatory designations – registration, certification, and licensure - statutorily in the general provisions of Chapter 30 in order to legally clarify the differences in regulation.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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John Sylvia
Director

June 21, 2012

Sandy Kerns, Executive Director
West Virginia Real Estate Appraiser Licensing and Certification Board
2110 Kanawha Boulevard East, #101
Charleston, WV 25311

Dear Executive Director Kerns:

This is to transmit a draft copy of the Sunrise report concerning the regulation of appraisal management companies. This report is scheduled to be presented during the July interim meeting of the Joint Committee on Government Operations and the Joint Committee on Government Organization. The July interim meetings are scheduled for July 23-25, 2012. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us by June 27, 2012. We need your written response by noon on July 2, 2012, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, July 19, 2012, to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

Joint Committee on Government and Finance

Appendix B: Board Correspondence-Reasons for Requesting Licensure



STATE OF WEST VIRGINIA

REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD

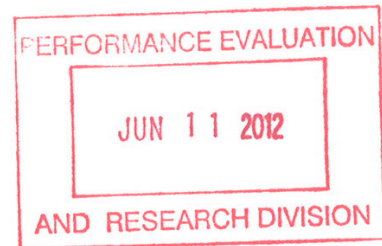
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June 8, 2012

Denny Rhodes, Research Manager
Performance Evaluation and Research Division
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Re: AMC Sunrise Application

Dear Mr. Rhodes:

This letter is in reply to your letter of June 6, 2012, specifically why our Board is requesting to license rather than register appraisal management companies. I believe you are referring to question # 7 of the Sunrise Review Application.

*Does the applicant propose licensure, certification, registration, or another type of regulation? Why? (Under **licensure**, it is illegal for anyone to engage in an occupation without a license, and only persons who possess certain qualifications are licensed. **Certification** protects specific occupational titles of persons who have met certain educational and experiential standards. Only persons certified in an occupation may use the protected title, although anyone may engage in the occupation. Under **registration**, any person may engage in an occupation, but she or he is required to submit information concerning the location, nature, and occupation of the practice.)*

As stated in our Sunrise Review Application, The West Virginia Real Estate Appraiser Licensing and Certification Board proposes licensure of Appraisal Management Companies.

Per the definition provided in the Sunrise Review Application, registration would not meet federal guidelines in that **any** person would be allowed to engage in the occupation by submitting information concerning the location, nature, and occupation of the practice; whereas the federal government has set specific minimum requirements related to the practice of appraisal management companies. Additional requirements are expected. I spoke with Vicki Ledbetter Metcalf, Appraisal Subcommittee Policy Manager, on June 8, 2012. She confirmed the requirements listed below would be the "minimum requirements" for AMC regulation and that additional requirements would be forthcoming from the entities named in paragraph (a).

BOARD MEMBERS

Mary Beth Allveto, Fairmont **R. Scott Barber**, Huntington **Dale Dawson Clowser**, Charleston
The Honorable Anthony Julian, Fairmont **Virginia Shaw**, New Haven **David Shields**, Bluefield
Glenn Summers, Clendenin **Linda York**, Morgantown

On the other hand, also as provided per definition in the Sunrise Review Application, licensure would meet the requirements of Dodd-Frank, in that only those who possess certain qualifications would be licensed.

Therefore, the Board seeks licensure in order to be in compliance with federal law, specifically, *Title XI of FIRREA, Real Estate Appraisal Reform [12 U.S.C. 3331-3351] as amended by the Dodd-Frank Reform Act* (included as part of our application). AMC minimum requirements are listed below:

§ 1124. 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 129E of the Truth in Lending Act.

(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 Bureau 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.

Ms. Metcalf also explained that “supervision” (paragraph (a) (1)) in federal terms refers to the ability to “discipline.” The federal government will expect that AMCs be subject to “supervision” in specific areas once all requirements are finalized at the federal level. These requirements will be different than those required for appraisers.

The Appraisal Subcommittee will monitor each state in terms of compliance to AMC guidelines, as well as appraiser guidelines. These guidelines can also be found in *Title XI of FIRREA, Real Estate Appraisal Reform [12 U.S.C. 3331-3351] as amended by the Dodd-Frank Reform Act*:

[12 U.S.C. 3347]

(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 title;
- (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 title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, funding, staffing, or procedures are found to be inconsistent with this title. 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.

Additionally, I was able to conduct a quick poll of 21 other states that have AMC legislation or are in the process of developing legislation. It seems that many states use the terms interchangeably; they may register the AMC, but issue a license. For example, Larry Disney, Executive Director of the Kentucky Real Estate Appraiser Board, stated that while their statute is referred to as the Kentucky AMC Registration Act, Kentucky sends the company a license to practice appraisal management in Kentucky under the statute voted by the legislature and regulations for operation that were approved by the legislative regulations committee. They do not register, collect fees and not expect compliance.

I hope this answers your questions. Please let me know if it does not, or if you have further questions. Thank you.

Sincerely,


Sandy Kerns
Executive Director

Appendix C: Legislative Services Legal Opinion

MEMO

To: Denny Rhodes
From: Maureen Robinson
Subject: Registration vs. licensure of Appraisal Management Companies
Date: June 13, 2012

Denny,

This memo is in response to your inquiry via telephone on June 8th regarding whether the Dodd-Frank Act requires that states license Appraisal Management Companies (AMCs) or whether state registration of AMCs is sufficient.

The plain language of the Dodd-Frank Act merely requires that AMCs “*register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates.*” Pub. L. 111-203, Title XIV Subtitle F, §1473.

The West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter “the board”) asserts two arguments in support of their proposal to obtain licensure of AMCs, rather than registration. The first argument for licensure is based on the definition of registration provided in the Sunrise Review Application. In her letter dated June 8, 2012, Sandy Kerns stated that:

Registration would not meet federal guidelines in that **any** person would be allowed to engage in the occupation by submitting information concerning the location, nature, and occupation of the practice; whereas the federal government has set specific minimum requirements related to the practice of appraisal management companies.

Ms. Kerns’ understanding of “registration” based on the brief description provided in the Sunrise Review Application overlooks the fact that the board would have the authority to promulgate rules setting forth the criteria for companies to qualify for registration. W. Va. Code §30-1-8(c). The main distinction between licensure and registration in the context of AMCs is that registration would not require the applicant to obtain a certain educational requirement or pass an examination to qualify. Rules promulgated by the board for registering AMCs would necessarily include the federal definition of an AMC, which the Dodd-Frank Act defined as follows:

(11) 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

Denny Rhodes
Page 2
June 19, 2012

nationally within a given year—

- (A) to recruit, select, and retain appraisers;
- (B) to contact 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 service provided, and reimbursing appraisers for services performed; or
- (D) to review and verify the work of appraisers.

Pub. L. 111-203, Title XIV Subtitle F, §1473(f)(4).

Thus, the definition of AMC makes clear that not just anybody could seek registration as an AMC, but that such a company would need, at the least, a panel of 15 or more appraisers who have already been certified or licensed by the board. Therefore, the board's concern that under a registration system "any person would be allowed to engage in the occupation by submitting information" is inaccurate.

The second argument put forth by the board for the licensure of AMCs rather than registration is that the federal government will expect that AMCs be subject to "supervision" by state board, which in federal terms refers to the ability to "discipline"

All West Virginia professional boards, including the Real Estate Appraiser Licensing and Certification Board, have the authority to "revoke the license or registration of an individual licensed or otherwise lawfully practicing within this State whose license or registration in any other state...has been revoked by the licensing authority thereof." W. Va. Code §30-1-8(d). In addition, the board may revoke a registration on other grounds after a hearing has been held. *Id.* at §30-1-8(f).

Therefore, based on West Virginia law and the minimum requirements outlined by the Dodd- Frank Act, nothing would prevent the board from supervising or disciplining AMCs that are registered with the state rather provided licenses.

In conclusion, without knowing what requirements will be contained in the final rules set to be issued later this year or early 2013, I see no reason why the board could not comply with the minimum requirements outlined by the Dodd-Frank Act by registering rather than licensing AMCs. However, a compromise worth considering may be for the certification of AMCs.

Appendix D: Agency Response



STATE OF WEST VIRGINIA

REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD

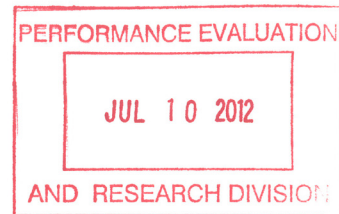
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Karen Hudson
Executive Assistant

July 9, 2012

John Sylvia, Director
Performance Evaluation and Research Division
West Virginia Legislative Auditor
Building 1, Room W-314
Charleston, West Virginia 25305-0610



Dear Mr. Sylvia:

On behalf of the West Virginia Real Estate Appraiser Licensing and Certification Board, thank you for your division's draft copy of the Sunrise report concerning the regulation of appraisal management companies. Your recommendation that the Legislature establish registration of appraisal management companies by our Board will allow West Virginia to comply with federal law and thus allow the mortgage industry continued participation in federally related mortgage transactions, such as FHA, VA, USDA, Fannie Mae and Freddie Mac transactions.

The report concludes that registration as opposed to licensure will be sufficient to comply with the minimum requirements set forth in the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. As the report also states, the three regulatory designations – registrations, certification and licensure are somewhat confusing and would benefit from clarification.

Ultimately, as stated by Scott DiBiasio of the Appraisal Institute, "The nomenclature that is used is less important than the requirements to obtain the AMC credential." An example of such a requirement would be that certain individuals within the AMC, e.g. the controlling person, hold an active appraiser's license in West Virginia.

To paraphrase Maureen Robinson, legal counsel for Legislative Services, the Board, through promulgation of rules and as a professional board granted authority under Chapter 30, would be able to expect compliance with approved operating practices and have authority to discipline those not complying. She further states that a compromise worth considering may be for the certification of AMCs. Leaving this a possibility seems prudent as final rules will not be set at the federal level until later this year or early 2013.

BOARD MEMBERS

Mary Beth Allveto, Fairmont **R. Scott Barber**, Huntington **Dale Dawson Clowser**, Charleston
The Honorable Anthony Julian, Fairmont **Virginia Shaw**, New Haven **David Shields**, Bluefield
Glenn Summers, Clendenin **Linda York**, Morgantown

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Secondly, the Sunrise draft report recommends inclusion of online AMC portals within the AMC legislation in order that these sources of AMC activities are regulated. The Board appreciates the Legislative Auditor addressing these entities.

Portals appear to be problematic nationwide, as evidenced by a recent on-line discussion with other state appraiser regulatory officials. While some states do not include language in their definition AMCs that captures portals, others do. Their satisfaction with their definition varies.

The advice from one state regulator to focus on behavior rather than business models when defining AMCs will be helpful to our Board when crafting legislation. As she stated, "We were very careful to define activities/behavior as opposed to business models in our pending legislation. That way if it walks like a duck, and quacks like a duck, we'll call it a duck."

The Board understands the report is scheduled to be presented during the July interim meeting of Joint Committee of Government Operations and the Joint Committee on Government Organization, which is scheduled for sometime between July 23-25, 2012 and also that a representative from our agency should be present to answer any questions the committees may have.

Please contact me if you have additional questions. Again, thank for your time and consideration.

Sincerely,



Sandy Kerns
Executive Director



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