



“MINIMUM REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES”

OMB CONTROL NUMBER 2590-0013

SUPPORTING STATEMENT

A. JUSTIFICATION

1. Circumstances Necessitating the Collection of Information

In 2015, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Bureau of Consumer Financial Protection (Bureau), and FHFA (collectively, the Agencies) jointly issued regulations¹ to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) relating to the eligibility of appraisal management companies (AMCs) to provide appraisal management services for real estate related financial transactions that are engaged in, contracted for, or regulated by a “federal financial institutions regulatory agency” or the Resolution Trust Corporation (“Federally related transactions”).² Generally, these statutory provisions provide that an AMC either be registered with a State’s appraiser certifying and licensing agency or be subject to oversight by a federal financial institutions regulatory agency in order to participate in a Federally related transaction.³

As required by the Dodd-Frank Act provisions, the Agencies’ joint AMC regulations establish minimum requirements for the registration and supervision of AMCs to be applied by States that have elected to establish an appraiser certifying and licensing agency with authority to register and supervise AMCs (participating States).⁴ The joint regulations also implement the statutory requirement that States report to the Appraisal Subcommittee (ASC) of the Federal Financial

¹ See 80 FR 32658 (June 9, 2015). By agreement, the responsibility for clearance under the PRA of information collections contained in the joint regulations is shared only by the FDIC, OCC, Board, and FHFA.

² See 12 U.S.C. § 3350(4), (5). “Federal financial regulatory agency” includes the FDIC, OCC, Board, and National Credit Union Administration. See 12 U.S.C. § 3350(6).

³ Section 1117 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 12 U.S.C. § 3346, permits states to establish an appraiser certifying and licensing agency “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.” The Dodd-Frank Act amended section 1117 to provide that the duties of a state appraiser certifying and licensing agency may also include the registration and supervision of AMCs. Although states are not required by federal law to register and supervise AMCs, or even to establish an appraiser certifying and licensing agency, an AMC that is not registered with such a state agency (except for those regulated by a federal financial institutions regulatory agency) may not participate in a federally-related transaction in that state. See 12 U.S.C. § 3353(f)(1).

⁴ See 12 CFR § 1222.23.

Institutions Examination Council (FFIEC) the information required by the ASC to administer a national registry of AMCs (AMC National Registry or Registry).⁵ When fully established, the AMC National Registry will include AMCs that are either: (1) subsidiaries owned and controlled by an insured depository institution (as defined in 12 U.S.C. 1813) and regulated by either the FDIC, OCC, or Board (federally regulated AMCs)⁶; or (2) registered with, and subject to supervision of, a state appraiser certifying and licensing agency. FHFA's AMC regulation, located at Subpart B of 12 CFR part 1222, is substantively identical to the AMC regulations of the FDIC, OCC, and Board and contains the recordkeeping and reporting requirements described in Item #2 below.⁷

2. Use of Data

The information collection requirements of the joint AMC regulations fall into four general categories: reporting requirements imposed on States, recordkeeping requirements imposed on States, reporting requirements imposed on AMCs, and recordkeeping requirements imposed on AMCs. These categories of collections and the use of the data collected are described below:

I. State Reporting Requirements (IC #1)

The regulation requires that each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State submit to the ASC the information regarding such AMCs required to be submitted by ASC regulations or guidance concerning AMCs that operate in the State.⁸

II. State Recordkeeping Requirements (IC #2)

States seeking to register AMCs must have an AMC registration and supervision program. The regulation requires each participating State to establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to: (i) review and approve or deny an application for initial registration; (ii) periodically review and renew, or deny renewal of, an AMC's registration; (iii) examine an AMC's books and records and require the submission of reports, information, and documents; (iv) verify an AMC's panel members' certifications or licenses; (v) investigate and assess potential violations of laws, regulations, or orders; (vi) discipline, suspend, terminate, or deny registration renewals of, AMCs that violate laws, regulations, or orders; and (vii) report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the ASC.⁹

The regulation requires each participating state to impose requirements on AMCs that are not federally regulated (non-federally regulated AMCs) to: (i) register with and be subject to

⁵ See 12 U.S.C. § 3353(e).

⁶ See 12 CFR § 1222.21(k) (defining "Federally regulated AMC").

⁷ See 12 CFR § 1222.20-.26. For clarity, the regulatory citations herein are to FHFA's version of the joint regulations only

⁸ See 12 CFR § 1222.26.

⁹ See 12 CFR § 1222.23(a).

supervision by a state appraiser certifying and licensing agency in each state in which the AMC operates; (ii) use only state-certified or state-licensed appraisers for federally regulated transactions in conformity with any federally regulated transaction regulations; (iii) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type; (iv) direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Practice; and (v) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with sections 129E(a) through (i) of the Truth-in-Lending Act.¹⁰

III. AMC Reporting Requirements (IC #3)

The regulation provides that an AMC may not be registered by a state or included on the AMC National Registry if the company is owned, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause.¹¹ The regulation also provides that an AMC may not be registered by a state if any person that owns 10 percent or more of the AMC fails to submit to a background investigation carried out by the state appraiser certifying and licensing agency.¹² Thus, each AMC registering with a state must provide information to the state on compliance with those ownership restrictions. Further, the regulation requires that a federally regulated AMC report to the state or states in which it operates the information required to be submitted by the state pursuant to the ASC's policies, including policies regarding the determination of the AMC National Registry fee, and information regarding compliance with the ownership restrictions described above.¹³

IV. AMC Recordkeeping Requirements (IC #4)

An entity meets the definition of an AMC that is subject to the requirements of the AMC regulation if, among other things, it oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state, or 25 or more state-certified or state-licensed appraisers in two or more states, within a given 12-month period.¹⁴ For purposes of determining whether a company qualifies as an AMC under that definition, the regulation provides that an appraiser in an AMC's network or panel is deemed to remain on the network or panel until: (i) the AMC sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.¹⁵ The AMC would retain these notices in its files.

¹⁰ See 12 CFR 1222.23(b). Sections 129E(a) through (i) of the Truth-in-Lending Act are located at 15 U.S.C. §§ 1639e(a)-(i).

¹¹ See 12 CFR 1222.24(a), .25(b).

¹² See 12 CFR 1222.24(b).

¹³ See 12 CFR 1222.25(c).

¹⁴ See 12 CFR 1222.21(c)(iii).

¹⁵ See 12 CFR 1222.22(b).

3. Use of Information Technology

The rule does not specify the manner in which the information must be retained or reported. This has been left to the discretion of either the ASC or the individual participating States, which may use any available type of information technology to meet the requirements of the rule.

4. Efforts to Identify Duplication

The information that AMCs and participating States are required to report or retain under the rule is not available from any alternative sources.

5. Impact on Small Entities

This information collection does not have a significant economic impact on a substantial number of small entities.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

The various aspects of this information collection are primarily event-driven. Less frequent collections would compromise the effectiveness of the AMC regulations' substantive requirements.

7. Circumstances Requiring Special Information Collection

There are no special circumstances that would require FHFA to conduct the information collection in a manner inconsistent with the guidelines provided in Item 7.

8. Solicitation of Comments on Information Collection

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published an initial notice and request for comments regarding the renewal of the PRA clearance for this information collection in the *Federal Register* on May 16, 2018 ("60-day notice").¹⁶ The 60-day comment period closed on July 16, 2018. FHFA received two comments, both of which are included as attachments to this Supporting Statement.

One comment letter, from an individual, asserted that this collection of information is not necessary for the proper performance of FHFA functions because "there is currently too much oversight which cost excessive amounts of money" and that those costs are "passed down to the consumers through the AMCs to cover costs to maintain regulatory compliance." Because these comments relate to regulatory burden generally and not to the collection of information under the joint AMC regulation, FHFA has not addressed them in this Supporting Statement.

The second comment letter, from a trade association representing AMCs, addressed a number of issues relating to the collection of information under the joint AMC regulation. First, the

¹⁶ See 83 FR 22681 (May 16, 2018).

commenter stated that the collection of information is “necessary” and has “practical utility,” but “only to the extent that the information collected serves the proper purpose to promote appraiser independence while ensuring a healthy real estate valuation market.” FHFA disagrees with the commenter’s implication that the “proper purpose” of the collection of information under the joint AMC regulations is limited to the promotion of appraiser independence. In fact, as required by statute, the AMC regulations address all issues on which the Agencies were required to promulgate regulations—including minimum requirements for registration of AMCs in participating states,¹⁷ registration limitations for AMCs,¹⁸ and the reporting of information by AMCs to the ASC¹⁹—and not merely the promotion of appraiser independence. The collection of information is necessary for implementation of those requirements. To the extent that the commenter disagrees with the scope and requirements of the joint AMC regulations, FHFA notes that those regulations may not be rescinded or revised through the PRA renewal process.

The second comment letter also questioned the accuracy of FHFA’s estimates of the burdens of the collection of information. Asserting that the Agencies’ estimate that there are 200 AMCs currently operating in the U.S. is too low, the commenter stated, without providing any further information or support, that “industry estimates” as to the number of AMCs “are closer to 400.” As stated in the 60-day notice, because the actual number of AMCs is not currently known and will not be known until the AMC National Registry is fully operational in 2020, the Agencies made a best guess that 200 entities currently qualify as an AMC, as that term is defined under the joint AMC regulations.²⁰ Because the commenter has provided no support for its assertion regarding the current number of AMCs subject to the joint regulations, FHFA’s estimate as to that number remains unchanged.

The commenter further asserted that, contrary to the Agencies’ estimates that 60 percent of existing AMCs (or 120 out of 200) are federally regulated, it knows of only one federally regulated AMC in existence. As with respect to the total number of AMCs, the Agencies made a best guess estimate as to the relative number of federally regulated and non-federally-regulated AMCs in the absence of any available empirical data on this issue pending completion of the AMC National Registry. As explained under Item #12, that estimate has no bearing on the Agencies’ estimates as to the total amount of burden imposed by the collections of information under the joint AMC regulations, but relates only to the appropriate distribution among the rulemaking Agencies of responsibility (under the PRA) for a portion of the total estimated burden. Given this, and the lack of support provided by the commenter for its estimate as to the actual number of federally regulated AMCs, FHFA’s estimate as to the relative number remains unchanged from that reflected in the 60-day notice.

¹⁷ See 12 U.S.C. § 3353(a).

¹⁸ See 12 U.S.C. § 3353(d).

¹⁹ See 12 U.S.C. § 3353(e).

²⁰ The joint regulations define “appraisal management company” generally to mean an entity that: (1) provides appraisal management services (for example, maintaining a panel of certified and licensed appraisers to perform appraisals, managing the process of having an appraisal performed, collecting fees, and paying appraisers) to creditors or to secondary mortgage market participants; (2) provides such services in connection with valuing a consumer's primary dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and (3) oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State-certified or State-licensed appraisers in two or more States within a 12-month period. See 12 CFR § 1222.21(c)(1).

Other issues addressed in the second comment letter, including recommendations that the ASC issue additional guidance to states and AMCs concerning the AMC minimum requirements, find opportunities to develop reporting efficiencies in the state licensing system, and be more aggressive in supporting modernization of the outdated National Appraiser Registry do not relate to the collection of information under the joint AMC regulation. The Agencies, however, will forward these suggestions to the ASC for consideration.

9. Provision of Payments to Respondents

No payments or gifts are made to respondents.

10. Assurance of Confidentiality

The Agencies have not provided, and are not required to provide, any assurance of confidentiality with respect to the information to be collected.

11. Questions of Sensitive Nature

There are no questions of a sensitive nature in this information collection.

12. Estimated Burden of Information Collection

Each of the Agencies' AMC regulations contains reporting and recordkeeping requirements applying to participating states and to both federally regulated and non-federally regulated AMCs. The Agencies have estimated that approximately 200 entities meet the regulatory definition of an "appraisal management company"²¹ and that, of those 200 AMCs, approximately 120 are federally regulated and approximately 80 are non-federally regulated.²² Unlike the insured depository institutions regulated by the OCC, FDIC, and Board, none of FHFA's regulated entities owns or controls an AMC or, by law, could ever own or control an AMC. Accordingly, the Agencies have agreed that responsibility for the burdens arising from reporting and recordkeeping requirements imposed upon federally regulated AMCs are to be split evenly among the OCC, FDIC, and Board (*i.e.*, the equivalent of 40 federally regulated AMCs for each agency) and that FHFA will not include those burdens in its totals. The four Agencies have agreed to split the total burdens imposed upon participating states and upon non-federally regulated AMCs evenly between them (*i.e.*, by taking responsibility for 25 percent of the burden per agency).

Thus, for ICs #1 and #2, which relate to reporting and recordkeeping requirements imposed upon participating states, each agency is responsible for 25 percent of the total estimated burden. For ICs #3 and #4, which relate to reporting and recordkeeping requirements imposed upon both federally regulated AMCs and non-federally regulated AMCs, the OCC, FDIC, and Board are

²¹ In FHFA's regulations, this definition is set forth at 12 CFR 1222.21(c).

²² FHFA anticipates that definitive information on the total number of AMCs and on the relative number of federally regulated and non-federally regulated AMCs will become available after the AMC National Registry becomes fully operational in 2020.

each responsible for 30 percent of the total burden, while FHFA is responsible only for 10 percent of the total burden.

The \$92 hourly cost estimate associated with the labor hours necessary to comply with the information collection was derived utilizing data gathered from the Bureau of Labor Statistics (BLS) as of September 2017. The estimate used represents: (a) the average of the May 2016 75th percentile wages for the following seven occupations—accountants and auditors, compliance officers, financial analysts, legal occupations, management occupations, software developers, and statisticians; (b) with 35.5 percent added for benefits and other overhead; (c) then adjusted by an inflation rate of 2.93 percent between May 2016 and September 2017; and (d) rounded to the nearest whole dollar.

The Agencies estimate the total annualized hour burden placed on respondents by the information collection in the joint AMC regulations to be 1,445 hours, with associated costs of \$132,940. FHFA estimates its share of the hour burden to be 183 hours, with associated costs of \$16,836. The calculations for each of the 4 ICs are described below.

IC #1 State Reporting Requirements

States electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State report information to ASC, as required by ASC regulations or guidance. For purposes of this calculation, the number of states is set at 55 which, in conformity with the regulatory definition of “state,” includes all 50 U.S. states as well as the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.²³

- Attributable to all Agencies combined:
 - Number of States: 55
 - Number of responses per State: 1
 - Total responses: 55
 - Total reporting time per response: 1 hour
 - Total hours attributable to all Agencies combined: 55

- Attributable to FHFA:
 - Percentage of burden: 25%
 - Reporting time per response: 0.25 hours
 - Total hours attributable to FHFA: 14

 - Hourly rate: \$92 (includes salary, benefits, and overhead)
 - Total compensation costs attributable to FHFA: \$1,288

IC #2 State Recordkeeping Requirements

States without a current AMC certifying and licensing program that elect to establish such a program as a result of the rule maintain records related to the rule’s substantive requirements.

²³ See 12 CFR § 1222.21(o).

According to the Appraisal Institute, as of July 26, 2017, there were 5 states that had not developed a system to register and oversee AMCs.²⁴

- Attributable to all Agencies combined:
 - Number of States without current AMC certifying and licensing programs: 5
 - Recordkeeping activities per State: 1
 - Total recordkeeping activities: 5
 - Recordkeeping time per activity: 40 hours
 - Total hours attributable to all Agencies combined: 200

- Attributable to FHFA:
 - Percentage of burden: 25%
 - Recordkeeping time per activity: 10 hours
 - Total hours attributable to FHFA: 50

 - Hourly rate: \$92 (includes salary, benefits, and overhead)
 - Total compensation costs attributable to FHFA: \$4,600

IC #3 State-Regulated AMC Reporting Requirements

State-regulated AMCs report to States information necessary to determine whether any person that owns more than 10 percent of the AMC has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. The Agencies estimate that each AMC will operate in an average of 19.56 States and that approximately 2 of those States would not have AMC registration systems ($5/55 \times 19.56 = 1.778$ States). The AMCs will need to submit information to each of those States.

- Attributable to all Agencies combined:
 - Number of AMCs: 200
 - Reports per AMC: 2
 - Total reports: 400
 - Preparation time per report: 1 hour
 - Total hours attributable to all Agencies combined: 400

- Attributable to FHFA:
 - Percentage of burden: 10%
 - Preparation time per report: 0.10 hours
 - Total hours attributable to FHFA: 40

 - Hourly rate: \$92 (includes salary, benefits, and overhead)
 - Total compensation costs attributable to FHFA: \$3,680

²⁴ Appraisal Institute “Enacted State AMC Laws,” <https://www.appraisalinstitute.org/advocacy/enacted-state-amc-laws1/>.

IC #4 State-Regulated AMC Recordkeeping Requirements

State-regulated AMCs maintain records of written notices sent or received regarding appraiser removal from the AMC's network or panel. The Agencies estimate that 9,881 appraisers annually will be laid off or resign from an AMC or have their licenses revoked, generating one removal notice sent or received per appraiser.

- Attributable to all Agencies combined:
 - Number of appraisers leaving AMCs: 9,881
 - Removal notices sent or received by AMC per appraiser: 1
 - Total removal notices sent or received by AMCs: 9,881
 - Recordkeeping time per notice: .08 hours
 - Total hours attributable to all Agencies combined: 790

- Attributable to FHFA:
 - Percentage of burden: 10%
 - Recordkeeping time per notice: .008 hours
 - Total hours attributable to FHFA: 79

 - Hourly rate: \$92 (includes salary, benefits, and overhead)
 - Total compensation costs attributable to FHFA: \$7,268

13. Estimated Total Annualized Cost Burden to Respondents

The FHFA has not identified any start-up costs to respondents. It is expected that States and AMCs will already have the infrastructure in place to carry out the rule's reporting and recordkeeping requirements.

14. Estimated Cost to the Federal Government

There will be no costs to the Federal government associated with this information collection.

15. Reasons for Change in Burden

Compared to the estimates contained in FHFA's 2015 Supporting Statement, the total estimated burden associated with this information collection fell from 5,252 to 1,445, with FHFA's portion of the burden falling proportionally, from 617 hours to 183 hours. This decrease is due almost entirely to a reduction from 500 to 200 in the Agencies' estimate as to the number of entities that qualify as an "AMC" for purposes of this joint AMC regulations and the related information collection.

16. Plans for Tabulation, Statistical Analysis and Publication

FHFA will not publish the results of this information collection.

17. If Seeking Approval to Not Display the Expiration Date for OMB Approval of the Information Collection, Explain the Reasons Why Display Would Be Inappropriate

FHFA plans to display the expiration date for OMB approval.

18. Explain Each Exception to the Topics of the Certification Statement Identified in “Certification for Paperwork Reduction Act Submission.”

There are no exceptions to the certification statement identified in Item 18.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.