

Federal Deposit Insurance Corporation

FDIC Law, Regulations, Related Acts

[\[Table of Contents\]](#)[\[Previous Page\]](#)[\[Next Page\]](#)[\[Search\]](#)

8000 - Miscellaneous Statutes and Regulations

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

AN ACT

To reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE IX — REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

SEC. 951. CIVIL PENALTIES.

(a) IN GENERAL--

Whoever violates any provision of law to which this section is made applicable by subsection (c) of this section shall be subject to a civil penalty in an amount assessed by the court in a civil action under this section.

(b) MAXIMUM AMOUNT OF PENALTY--

(1) GENERALLY--

The amount of the civil penalty shall not exceed \$1,000,000.

(2) SPECIAL RULE FOR CONTINUING VIOLATIONS--

In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of \$1,000,000 per day or \$5,000,000.

(3) SPECIAL RULE FOR VIOLATIONS CREATING GAIN OR LOSS--

(A) If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violator, the amount of the civil penalty may exceed the amounts described in paragraphs (1) and (2) but may not exceed the amount of such gain or loss.

(B) As used in this paragraph, the term "person" includes the Bank Insurance Fund, the Savings Association Insurance Fund and after the merger of such funds, the Deposit Insurance Fund, and the National Credit Union Share Insurance Fund.

(c) VIOLATIONS TO WHICH PENALTY IS APPLICABLE

This section applies to a violation of, or a conspiracy to violate--

- (1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of Title 18;
 - (2) section 287, 1001, 1032, 1341 or 1343 of Title 18 affecting a federally insured financial institution; or
 - (3) section 645(a) of Title 15.
- (d) EFFECTIVE DATE.--This section shall apply to violations occurring on or after August 10, 1984.

(e) ATTORNEY GENERAL TO BRING ACTION--

A civil action to recover a civil penalty under this section shall be commenced by the Attorney General.

(f) BURDEN OF PROOF--

In a civil action to recover a civil penalty under this section, the Attorney General must establish the right to recovery by a preponderance of the evidence.

(g) ADMINISTRATIVE SUBPOENAS--

(1) IN GENERAL--

For the purpose of conducting a civil investigation in contemplation of a civil proceeding under this section, the Attorney General may--

(A) administer oaths and affirmations;

(B) take evidence; and

(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

(2) PROCEDURES APPLICABLE

The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of Title 18 apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

(3) LIMITATION--

In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under paragraph (2) not later than 5 days after the date of service.

(h) STATUTE OF LIMITATIONS--

A civil action under this section may not be commenced later than 10 years after the cause of action accrues.

[Codified to 12 U.S.C. § 1833a]

[Source: Section 951 of title IX of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 498; sections 2533 and 2596(d) of title XXV of the Act of November 29, 1990 (Pub. L. No. 101-647; 104 Stat. 4882 and 4908), effective November 29, 1990; section 330003(g) of title XXXIII of the Act of September 13, 1994 (Pub. L. No. 103-22; 108 Stat. 2141), effective retroactive to November 29, 1990; section 9(g)(1) of the Act of February 15, 2006 (Pub. L. No. 109-173; 119 Stat. 3618), effective February 15, 2006]

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

SEC. 1103. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.

(a) IN GENERAL.--The Appraisal Subcommittee shall--

(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;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies 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) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(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.

(b) MONITORING AND REVIEWING FOUNDATION.--The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

[Codified to 12 U.S.C. 3332]

[Source: Section 1103 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 512), effective August 9, 1989; section 1473(b) and (f)(1) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2190, 2191, and 2192), effective July 21, 2010]

SEC. 1104. 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 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, 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. The subject matter discussed in any closed or executive session shall be described in the Federal Register notice of the meeting.

[Codified to 12 U.S.C. 3333]

[Source: Section 1104 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 512), effective August 9, 1989; section 1473(c) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1105. 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 title consistent with the appointment and compensation practices of the Council.

[Codified to 12 U.S.C. 3334]

[Source: Section 1105 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 512), effective August 9, 1989]

SEC. 1106. POWERS OF APPRAISAL SUBCOMMITTEE.

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, prescribe regulations in accordance with chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) after notice and opportunity for comment, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate. Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this title) 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.

[Codified to 12 U.S.C. 3335]

[Source: Section 1106 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 512), effective August 9, 1989; section 1473(d) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1107. PROCEDURES FOR ESTABLISHING APPRAISAL STANDARDS AND REQUIRING THE USE OF CERTIFIED AND LICENSED APPRAISERS.

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, United States Code, 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.

[Codified to 12 U.S.C. 3336]

[Source: Section 1107 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 513), effective August 9, 1989]

SEC. 1108. STARTUP FUNDING.

(a) IN GENERAL.--For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of \$5,000,000 on the date of the enactment of this Act. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) ADDITIONAL FUNDS.--Except as provided in [section 1122\(b\)](#) of this title, funds in addition to the funds provided under subsection (a) 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.

[Codified to 12 U.S.C. 3337]

[Source: Section 1108 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 513), effective August 9, 1989; as amended by section 2212 of title II of the Act of September 30, 1996 (Pub. L. No. 104-208; 110 Stat. 3009-411), effective September 30, 1996]

SEC. 1109. 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 title, 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 title;

(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

(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 title 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 title; and

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

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 title. 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.

(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 title;
- (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 the date of the enactment of this title;
- (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;
- (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 title, 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.

[Codified to 12 U.S.C. 3338]

[Source: Section 1109 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 513), effective August 9, 1989; section 1473(g), 1473(h)(1) (A) and (B), (h)(2) and (i) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2194--2195), effective July 21, 2010]

Note

(2) INCREMENTAL REVENUES.--Incremental revenues collected shall be placed in a separate account at the United States Treasury, entitled the "Appraisal Subcommittee Account".

[Codified to 12 U.S.C. 3338 Note]

[Source: Section 1473(h)(2) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2195), effective July 21, 2010]

SEC. 1110. FUNCTIONS OF THE 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;
- (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; and

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

[Codified to 12 U.S.C. 3339]

[Source: Section 1110 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 514), effective August 9, 1989; section 1473(e)(1) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1111. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act.

[Codified to 12 U.S.C. 3340]

[Source: Section 1111 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 514), effective August 9, 1989]

SEC. 1112. FUNCTIONS OF THE 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, 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.

(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.

[Codified to 12 U.S.C. 3341]

[Source: Section 1112 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 514), effective August 9, 1989; as amended by section 954, of title IX of the Act of October 28, 1992 (Pub. L. No. 102--550; 106 Stat. 3894), effective October 28, 1992; section 106(g) of title I of the Act of October 19, 1996 (Pub. L. No. 104--316; 110 Stat. 3831), effective October 19, 1996; section 9(g)(2) of the Act of February 15, 2006 (Pub. L. No. 107--193; 119 Stat. 3617), effective date shall take effect on the date of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to the Federal Deposit Insurance Reform Act of 2005; section 1473(a) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2190), effective July 21, 2010]

SEC. 1113. TRANSACTIONS REQUIRING THE SERVICES OF A 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 title 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 where 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.

[Codified to 12 U.S.C. 3342]

[Source: Section 1113 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 514), effective August 9, 1989; section 1473(e)(2) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1114. TRANSACTIONS REQUIRING THE SERVICES OF A 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.

[Codified to 12 U.S.C. 3343]

[Source: Section 1114 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 514), effective August 9, 1989]

SEC. 1115. TIME FOR PROPOSAL AND ADOPTION OF RULES.

As appropriate, rules issued under sections 1113 and 1114 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act.

[Codified to 12 U.S.C. 3344]

[Source: Section 1115 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 515), effective August 9, 1989]

SEC. 1116. CERTIFICATION AND LICENSING REQUIREMENTS.

(a) IN GENERAL.--For purposes of this title, 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) DEFINITION.--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 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.

(d) **ADDITIONAL QUALIFICATION CRITERIA.**--Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title 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) **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.

[Codified to 12 U.S.C. 3345]

[Source: Section 1116 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 515), effective August 9, 1989; as amended by section 701(a) of title VII of the Act of December 12, 1991 (Pub. L. No. 102--233; 105 Stat. 1792), effective December 12, 1991; section 472(a) of title IV of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2386), effective December 19, 1991; section 1473(j) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2195--2196), effective July 21, 2010]

SEC. 1117. 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. The duties of such agency may additionally include the registration and supervision of the appraisal management companies and the addition of information about the appraisal management company to the national registry.

[Codified to 12 U.S.C. 3346]

[Source: Section 1117 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 515), effective August 9, 1989; section 1473(f)(3) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2193), effective July 21, 2010]

SEC. 1118. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

(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.

(b) **DISAPPROVAL BY APPRAISAL SUBCOMMITTEE.**--The Federal financial institutions, 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 title;
- (2) the State agency is not granted authority or sufficient funding by the State which is adequate to permit the agency to carry out its functions under this title; 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 title.

(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 Appraisal 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.

[Codified to 12 U.S.C. 3347]

[Source: Section 1118 of the Act of title XI of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 515), effective August 9, 1989; section 1473(k) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2196), effective July 21, 2010]

SEC. 1119. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS FOR PURPOSES OF THIS TITLE.

(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 title.
- (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 title.

(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 title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, 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 title, 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 title.

[Codified to 12 U.S.C. 3348]

[Source: Section 1119 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 516), effective August 9, 1989; as amended by section 701(b) of title VII of the Act of December 12, 1991 (Pub. L. No. 102--233; 105 Stat. 1792), effective December 12, 1991; section 472(b) of title IV of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2386), effective December 19, 1991; section 1473(t)(1) of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2199), effective July 21, 2010]

SEC. 1120. 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 1119(b), 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 1121(5) to which such association or corporation is a party.

(b) PENALTIES.--A financial institution that violates subsection (a)(1) shall be subject to civil penalties under [section 8\(i\)\(2\)](#) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, 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, United States Code.

[Codified to 12 U.S.C. 3349]

[Source: Section 1120 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 517), effective August 9, 1989]

SEC. 1121. DEFINITIONS.

For purposes of this title:

(1) STATE APPRAISER CERTIFYING AND LICENSING AGENCY.--The term "State appraiser certifying and licensing agency" means a State agency established in compliance with this title.

(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 Corporation, 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 3](#) of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.
- (8) CHAIRPERSON.--The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the Council.
- (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.
- (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.

[Codified to 12 U.S.C. 3350]

[Source: Section 1121 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 517), effective August 9, 1989; sections 1473(f)(4) and 1473(t)(1)--(3) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2193 and 2199), effective July 21, 2010]

SEC. 1122. MISCELLANEOUS PROVISIONS.

- (a) TEMPORARY PRACTICE.--(1) TEMPORARY PRACTICE.--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.--Notwithstanding any other provisions of this title, 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 title; 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.
- (c) SUPPLEMENTAL FUNDING.--Funds available to the Federal financial institutions regulatory agencies may be made available to the Financial Institutions Examination Council to support the Council's functions under this title.
- (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 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.
- (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 title. 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 title 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 the date of the enactment of this title, and
 - (B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after the date of the enactment of this title.
- (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.

[Codified to 12 U.S.C. 3351]

[Source: Section 1122 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 518), effective August 9, 1989; as amended by section 315 of title III of the Act of September 23, 1994 (Pub. L. No. 103--325; 108 Stat. 2222), effective September 23, 1994; sections 1473(l)--(o), and (t)(4)(A) of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2197 and 2199), effective July 21, 2010]

SEC. 1123. EMERGENCY EXCEPTION FOR DISASTER AREAS.

(a) IN GENERAL.--Each Federal financial institutions regulatory agency may, by regulation or order, make exceptions to this title, and to standards prescribed pursuant to this title, 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 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 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).

(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 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists.

[Codified to 12 U.S.C. 3352]

[Source: Section 1123 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 518), effective August 9, 1989; section 2 of the Act of October 23, 1992 (Pub. L. No. 102--485; 106 Stat. 2771), effective October 23, 1992]

SEC. 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.
- (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 title.

[Codified to 12 USC 3353]

[Source: Section 1124 added by section 1473(f)(2) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2192), effective July 21, 2010]

SEC. 1125. 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.

[Codified to 12 USC 3354]

[Source: Section 1125 added by section 1473(q) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2198), effective July 21, 2010]

SEC. 1126. 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 1125(c).

[Codified to 12 USC 3355]

[Source: Section 1126 added by section 1473(r) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2198), effective July 21, 2010]

TITLE XII — MISCELLANEOUS PROVISIONS

SEC. 1206. COMPARABILITY IN COMPENSATION SCHEDULES.

(a) **IN GENERAL**

The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration Board, the Federal Housing Finance Board, the Office of Financial Research, and the Bureau of Consumer Financial Protection, the Farm Credit Administration, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of

the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

(b) COMMODITY FUTURES TRADING COMMISSION--

In establishing and adjusting schedules of compensation and benefits for employees of the Commodity Futures Trading Commission under applicable provisions of law, the Commission shall--

- (1) inform the heads of the agencies referred to in subsection (a) of this section and Congress of such compensation and benefits; and
- (2) seek to maintain comparability with those agencies regarding compensation and benefits.

[Codified to 12 U.S.C. § 1833b]

[Source: Section 1206 of title XII of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 523), effective August 9, 1989; section 302(a) of title III of the Act of December 12, 1991 (Pub. L. No. 102-33; Stat. 1767), effective February 1, 1992; section 8(d)(3) of the Act of January 16, 2002 (Pub. L. No. 107-123; 115 Stat. 2400), effective October 1, 2002; section 10702(b) of title X of the Act of May 13, 2002 (Pub. L. No. 107-171; 116 Stat. 516), effective May 13, 2002; section 152(d)(3) of title I of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 1414); section 367(8) of title III of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 1557), effective July 21, 2010]

SEC. 1213. COMPTROLLER GENERAL AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF AGENCIES OR OTHER PERSONS PERFORMING FUNCTIONS UNDER BANKING LAWS--

(1) IN GENERAL--

Except as provided in paragraph (2), all agencies, corporations, organizations, and other persons of any description which perform any function or activity under this Act, or any other Act which is amended by this Act, shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(2) EXCEPTIONS--

Paragraph (1) shall not apply to--

(A) any function or activity of the Board of Governors of the Federal Reserve System or the Federal Reserve banks that is described in any paragraph of section 714(b) of Title 31; and

(B) any function or activity of the Federal National Mortgage Association, except as provided in section 1723a(j) of this title.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES--

All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under this Act shall be subject to audit by the Comptroller General with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION--

(1) NATURE AND SCOPE OF AUDIT--

The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW--

The authority of the Comptroller General under this section shall be in addition to any audit authority available to the Comptroller General under other

provisions of this Act or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING

The Comptroller General, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession or control of any agency or person which is subject to audit under this section which the Comptroller General deems relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS--

The Comptroller General's right of access to information under this section shall be enforceable pursuant to section 716 of Title 31.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS--

The provisions of section 716(e) of Title 31 shall apply to information obtained by the Comptroller General under this section.

[Codified to 12 U.S.C. § 1833c]

[Source: Section 1213 of title XII of the Act of August 9, 1989 (Pub. L. No. 101-73: 103 Stat. 528), effective August 9, 1989]

SEC. 1216. EQUAL OPPORTUNITY.

(a) IN GENERAL--

For purposes of this Act, Executive Order Numbered 11478, providing for equal employment opportunity in the Federal Government, shall apply to--

- (1) the Comptroller of the Currency;
- (2) the Federal Housing Finance Agency; and
- (3) the Federal Deposit Insurance Corporation;

(b) AFFIRMATIVE PROGRAM FOR EQUAL EMPLOYMENT OPPORTUNITY--

For purposes of this Act, sections 1 and 2 of Executive Order Numbered 11478, providing for the adoption and implementation of equal employment opportunity, shall apply to Federal Home Loan Banks, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(c) SOLICITATION OF CONTRACTS--

The Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Housing Finance Agency shall each prescribe regulations to establish and oversee a minority outreach program within each such agency to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the agency with such persons or entities, public and private, in order to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

(d) REPORT TO CONGRESS--

BEFORE THE END OF THE 180-DAY PERIOD BEGINNING ON AUGUST 9, 1989--

- (1) the Federal Deposit Insurance Corporation;
- (2) the Comptroller of the Currency;

- (3) the Federal Housing Finance Board;
- (4) the Federal Home Loan Mortgage Corporation; and
- (5) the Federal National Mortgage Association,

shall each submit to the Congress a report containing a complete description of the actions taken by such agency pursuant to subsections (a) and (b) of this section and such recommendations for administrative and legislative action as each such agency may determine to be appropriate to carry out the purposes of such subsection.

[Codified to 12 U.S.C. § 1833e]

[Source: Section 1216 of title XII of the Act of August 9, 1989 (Pub. L. No. 101-73: 103 Stat. 529), effective August 9, 1989; section 302(a) of title III of the Act of December 12, 1991 (Pub. L. No. 102-33; 105 Stat. 1767), effective February 1, 1992; section 1216(g) of title II of the Act of July 30, 2008 (Pub. L. No. 110--289; 122 Stat. 2793), effective July 30, 2008; section 367(9) of title III of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 1557), effective July 21, 2010]

[\[Table of Contents\]](#)  [\[Previous Page\]](#)  [\[Next Page\]](#)  [\[Search\]](#)

Last Updated April 20, 2014

regs@fdic.gov

[Home](#) [Contact Us](#) [Search](#) [Help](#) [SiteMap](#) [Forms](#) [En Español](#)

[Website Policies](#) [Privacy Policy](#) [Accessibility Statement](#) [Plain Writing Act of 2010](#) [USA.gov](#) [FDIC Office of Inspector General](#)

[Freedom of Information Act \(FOIA\) Service Center](#) [FDIC Open Government Webpage](#) [No FEAR Act Data](#)