

## [Banking and Finance Law Daily Wrap Up, MORTGAGES—Agencies implement standards for state supervision of appraisal management companies, \(Apr. 22, 2015\)](#)

Banking and Finance Law Daily Wrap Up

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By Colleen M. Svelnis, J.D.

The banking regulatory agencies have jointly released a Final Rule implementing minimum requirements for state registration and supervision of appraisal management companies as set forth in section 1473 of the Dodd-Frank Act. Under the Final Rule, [Minimum Requirements for Appraisal Management Companies](#), these federally regulated appraisal management companies (AMCs) do not need to register with a state, but are subject to the same minimum requirements as state-regulated AMCs. The Rule implements requirements for states that wish to license AMCs, which are companies that serve as intermediaries between appraisers and lenders and provide appraisal management services. The Rule is a joint release by the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration (NCUA), the Consumer Financial Protection Bureau, and the Federal Housing Finance Agency.

Additionally, the Rule implements the requirement in section 1473 for states to report information to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council for the ASC to administer the new national registry of AMCs.

The Final Rule also makes technical changes to the FDIC's Rules and Regulations to eliminate redundancy by integrating FDIC supervised state savings associations, streamlining FDIC rules, and rescinding the former Office of Thrift Supervision (OTS) appraisal rule located at Part 390, Subpart X.

The FDIC staff has [recommended](#) approval of the Final Rule.

Under the Rule, states would be called upon to create programs that would require AMCs to:

- register;
- use only registered appraisers for federally related mortgage transactions;
- require appraisers to comply with the Uniform Standards of Professional Appraisal Practice;
- select competent, independent appraisers; and
- maintain controls reasonably designed to ensure compliance with the Truth in Lending Act's appraisal independence standards.

**Effective date.** Participating states will have 36 months from the time the regulatory agencies issue the final AMC rules to set up AMC registration and supervision systems. The Final Rule would not compel a state to establish an AMC registration and supervision program; however, after the effective date, no AMC may provide appraisal management services in connection with a federally related transaction in a state that has elected not to participate or in a participating state that has not implemented a registration system. Additionally, federally regulated AMCs must comply with the minimum requirements no later than 12 months from the effective date of the Final Rule.

**Changes to Proposed Rule.** Following the issuance of the [Proposed Rule](#) in March of 2014 (see [Banking and Finance Law Daily](#), March 24, 2014), the agencies collectively received 255 comment letters, with 88 unique comments. The Final Rule is substantially the same as the proposal and includes the following.

1. In response to the comments received, the Final Rule revises the standard for determining whether an appraiser is an independent contractor based on whether the appraiser is treated as an independent contractor by the AMC for federal income taxation purposes.
2. The Final Rule distinguishes between AMCs and appraisal firms based on their respective use of fee appraisers and employees. While AMCs were not subject to regulatory oversight prior to enactment of the Dodd-Frank Act, appraisal firms were already subject to supervision via the state credentialing process and application of the Uniform Standards of Professional Appraisal Practice. The Rule states that the majority of commenters who responded to this issue supported the exclusion of appraisal firms.
3. The Final Rule clarifies that the counting of appraisers for the purpose of determining the panel threshold size for an AMC will be based on the number of appraisers listed on the roster who are potentially available to perform appraisals and not on the number of appraisers actually engaged to perform appraisals.
4. The Final Rule removes cross-references to TILA from the definitions section so states will not have to update, clarify, or amend state laws as TILA is amended over time.
5. The Final Rule clarifies that AMC registration limits for individuals who have had their licenses refused, denied, cancelled, surrendered, or revoked do not apply if a license has been revoked for nonsubstantive reasons or reinstated.
6. The Final Rule clarifies that an AMC credit union service organization is not considered to be a federally regulated AMC and therefore would be regulated by the state or states in which it operates. This interpretation is in accord with the NCUA's position on the issue.
7. The Final Rule clarifies that AMCs may engage appraisers who train appraisers to assist on assignments.

RegulatoryActivity: BankingOperations ConsumerCredit DoddFrankAct Mortgages TruthInLending