

# **Recent Developments with AMCs and State Requirements**

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From the Perspective of an  
Appraiser, Appraisal Firm Owner and Small AMC

# What is a Small AMC?

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- **Often Appraiser-owned**
  - Asked to manage the process by clients
  - Most of us agreed begrudgingly ☺
- **Typically work with local correspondent lenders**
- **Provide limited management functions**
  - Recruit appraisers for panel
  - Assign appraisal requests
  - Coordinate appraisal process
  - Deliver completed reports
  - Pay appraisers



# Why a Small AMC?

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- **Why Lenders Work with Small AMCs**

- Outsource appraiser independence requirements of the HVCC
- Financial reasons

- **Why Appraisers Work with Small AMCs**

- Full fees
- Reasonable turn-times

- **Unintended Consequences of Small AMCs**

- High quality appraisals
- Good Communication



# Dodd-Frank Wall Street Reform and Consumer Protection Act

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- 18 States have enacted AMC laws
- 2 more await Governor signatures
  
- We may have an opportunity to amend current laws -  
or re-write them!

# Universal Problem

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- Definition of AMC Capturing Unintended Persons and Entities
  - *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-** (emphasis added)*
    - (Dodd-Frank Wall Street Reform and Consumer Protection Act)



# Definition of Appraisal Management Services

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- *“Appraisal management services” means...receiving a request...and for a fee paid by the client, entering into an agreement with an independent contractor...to perform the appraisal. (Oregon)*
- *An AMC...acts as a broker in acquiring finished appraisals from...appraisers and supplying the appraisal to third parties, but AMCs are not licensed to perform real estate appraisals. (Vermont)*

# Possible Exclusions

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- **Appraisers and Appraisal Firms Contracting in the Normal Course of Business**
  - *This chapter does not apply to (1) an entity that: (b) in the normal course of business enters into an agreement...with another appraiser for the performance of a real estate appraisal activity that the individual cannot complete for any reason, including: (Utah)*
    - *Competency*
    - *Work load*
    - *Schedule*
    - *Geographic location*

# Contracting in the Normal Course of Business

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- **Don't let appraiser-owned AMC's off the hook, though!**
- *This chapter does not apply to: (4) an appraisal management company that contracts with one or more appraisers for...fewer than ten appraisals...in a calendar year. (Utah)*



# Possible Exclusions

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- **Appraisers Taking Responsibility By Co-signing Reports**
  - *This chapter does not apply to: a person that enters into an agreement with an appraiser...and upon the completion...the report is signed by both the appraiser...and by the appraiser who requested the completion of the appraisal (Minnesota)*



# AMCs Who Sign Reports of Contract Appraisers

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*...except that an AMC may not avoid the requirements ...by requiring an employee of the AMC...sign an appraisal...by another appraiser that is part of the appraiser panel of the AMC (Oklahoma)*



# Possible Exclusions

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- Firms with Employer-Employee Relationship  
(Traditional Appraisal Firms)
  - *Provisions of this chapter shall not apply to: 2. Any person or entity that exclusively employs persons on an employer and employee basis for the performance of appraisals ...(Virginia)*

# Problematic: Appraisal Firms Employing Independent Contractors

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- Use by Firms of Independent Contractors
  - Appraisal firms 1099ing “employees” may wish to study IRS code <http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>
  
- Excluding Appraisal Firms Who Use Independent Contractors
  - *The provisions...shall not apply to: ...individuals who...maintain a list of ten or fewer employees...or **independent contractor**...appraisers (Oklahoma)*

## Excluding Appraisal Firms Who Use Independent Contractors

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### □ Definition of Appraisal Firm

- *'Appraisal Firm' means a person, limited liability company, partnership, association or corporation...(3) Whose principal supervises, trains and reviews work product produced...including, without limitation, employees and **independent contractors**. (Nevada)*

# Other Unintended Individuals/Entities Being Captured

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## ■ Attorneys

- *'AMC' does not include: (i) any person licensed to practice law in this state who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an appraiser; (Georgia)*

## ■ Relocation Companies

## ■ CPAs

- *...shall not apply to...(8) A certified public accountant when engaged by a client... (Louisiana)*

## ■ Government Bodies

- *...shall not apply to: a state agency or local municipality that orders appraisals for ad valorem tax purposes or any other business on behalf of the State of Missouri (Missouri...obviously 😊)*

# Other Unintended Individuals/Entities Being Captured

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## ■ Financial Institutions

- *This bill does not apply to: (2) A department or unit within a financial institution that is subject to direct regulation by and agency of the US government... (Tennessee)*

## ■ Real Estate Brokers

- *“AMC” does not include...any [licensed] real estate broker...when acting under the authority of that license. (California)*

## ■ Special Exemptions

- *...the LREAB may issue special exemptions, if deemed acceptable by the board, upon special application and review. (Louisiana)*



# Surprising Unintended Consequences

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- Ensuring USPAP Compliance
  - Typical language: *An AMC must certify it has a it has procedures in place to review on a periodic basis the work of all appraisers performing appraisals for the company to ensure that such appraisals are being conducted in accordance with USPAP (Connecticut)*



# Tennessee Has the Answer!

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- Mandatory Reporting

- *This amendment...requires an AMC to report to the commission the results of any appraisal reviews in which an appraisal is found to be substantially non-compliant with USPAP or state or federal laws pertaining to appraisals.  
(Tennessee)*

# Side Note to Ensuring USPAP Compliance

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- Language from the Dodd-Frank Bill
  - *Such requirements shall include a requirement that such companies...(3) require that appraisals coordinated by an AMC comply with the USPAP...*
  
  - Required to Ensure?

or

  - Required to Require?

# Surprising Unintended Consequences

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- **Unintended Consequences of High Registration**
  - *The board shall establish fees which are adequate to ensure its continued operation (Florida)*
  - **Florida's Registration Fee = \$150**
  - *Fees...must be sufficient to cover the costs of administering...this 2010 Act (Oregon)*
  - **Oregon's Registration Fee = \$5,800 (est.)**
  
- **Alternatives for small AMCs are to**
  - Raise fees to consumers
  - Reduce fees to appraisers
  - Close down

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- For info about a few dozen other things to avoid:
    - [egan@teamappraisals.com](mailto:egan@teamappraisals.com)