APPRAISAL MANAGEMENT COMPANY (AMC) AUDITS:
REQUIREMENTS & RECOMMENDATIONS

Kristen Worman
General Counsel/Deputy Commissioner
Texas Appraiser Licensing & Certification Board
AARO Spring 2017 Conference – Tampa Bay, FL
Overview

- AMC Audit Requirements
  - Texas
    - TALCB Jurisdiction/Authority for AMC Audits
    - AMC Audit Practices in Texas
  - Federal Law – AMC Rules

- Recommendations
  - Model Template for AMC Audits
  - National AMC Audit Database
TALCB Jurisdiction/Authority for AMC Audits

- The Texas Appraiser Licensing & Certification Act
  - Chapter 1103, Texas Occupations Code (codified 2001)
  - Tex. Occ. Code §1103.159 – Creates AMC Advisory Committee to make recommendations to the Board
  - Vice-Chair of the Board; 2 AMC Members; 2 Members of the Public

- The Texas Appraisal Management Company Registration & Regulation Act
  - Chapter 1104, Texas Occupations Code (adopted 2011)
  - Tex. Occ. Code §1104.156 – TALCB may audit AMC records to ensure compliance with:
    - Chapter 1104
    - TALCB Rules
    - USPAP
AMC Audit Practices in Texas

- Texas AMC Advisory Committee
  - Began planning for AMC audits in FY2015
  - Tier 1 – Random AMC compliance audits
  - Tier 2 – More comprehensive audits triggered by complaints or audit findings
  - Will likely resume consideration of AMC audits in 2017
  - AMC complaint volume remains low:
    - FY2015 – 8
    - FY2016 – 17
    - FY2017 – 4
- No AMC audits have been conducted
AMC Audit Requirements – Federal Law

- Federal AMC Rules (adopted 2016)
  - Require states with an AMC program to have authority to audit AMCs
  - Actual AMC audits NOT required
Recommendations for AMC Audits

- Model Template for AMC Audits
- National AMC Audit Database
Model Template for AMC Audits

- AARO Special Task Force
  - Appointed to develop model template for all states to use
    - Jeff Dickstein, Pro Teck Valuation Services
    - Karen Emerle, Certified Residential Appraiser
    - Kristen Worman, TALCB General Counsel/Deputy Commissioner
AUDIT TEMPLATE

for

AMC Compliance with Appraiser Independence Requirements

15 U.S.C. §1639e

Drafted by:
Jeff Dickstein, Chief Compliance Officer, Pro Teck Valuation Services
Karen Emerle, Certified Residential Appraiser, & Member, Illinois Coalition of Appraisal Professionals (ICAP)
Kristen Worman, General Counsel/Deputy Commissioner, Texas Appraiser Licensing & Certification Board (TALCB)

Submitted March 6, 2017
# Audit Template for Compliance with Appraisal Independence Requirements (AIR)

### 15 U.S.C. §1639e

<table>
<thead>
<tr>
<th>No.</th>
<th>Compliance</th>
<th>Statute</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td>$1639e(b)(1)</td>
<td>An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not— coercer, extort, collude, instruct, induce, bribe, intimidate or, in any other manner, cause or attempt to cause the appraised value of a property assigned under an appraisal to be based on any factor other than the independent judgment of the appraiser.</td>
</tr>
</tbody>
</table>

**Comment:**

**IndependentJudgment of the Appraiser:** $1639e(b)(1)  
**Risk Issue:**  
Confirm that an AMC is not influencing the appraised value of a property through coercion, extortion, collusion, instruction, bribery, intimidation, or any other means.

**Justification to Audit:**  
Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession, and the soundness of the real estate market and economy.

**Documentation Needed:**
- Obtain a list of appraisal assignments from the AMC for the selected audit period.
- Select a random and independent number of appraisal assignments from the list provided and analyze for compliance.
- AMC Policies and Procedures on appraiser independence.
- Records of communications between appraiser and AMC.
- If necessary, signed statements from parties with knowledge of the relevant facts.
- Appraisal order documents.
- Payment records, if applicable.

**Compliance Determination:**
Analyze relevant documentation to ensure appraiser independence. Consider whether any exceptions in §1639e(c) apply:
- The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:
  1. Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.
  2. Provide further detail, substantiation, or explanation for the appraiser’s value conclusion.
  3. Correct errors in the appraisal report.
15 U.S.C. §1639e

<table>
<thead>
<tr>
<th>No.</th>
<th>Compliance</th>
<th>Statute</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td></td>
<td>N/A</td>
<td>$1639e(b)(2)</td>
</tr>
</tbody>
</table>

Comment: Mischaracterization: $1639e(b)(2)
Risk Issue:
Confirm that an AMC is not mischaracterizing or causing the mischaracterization of the appraised value of a property.

Justification to Audit:
Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession, and the soundness of the real estate market and economy.

Documentation Needed:
- Obtain a list of appraisal assignments from the AMC for the selected audit period.
- Select a random and independent number of appraisal assignments from the list provided and analyze for compliance.
- AMC Policies and Procedures on appraiser independence.
- Records of communications between appraiser and AMC.
- If necessary, signed statements from parties with knowledge of the relevant facts.
- Appraisal order documents.
- Appraisal report submitted, including all drafts.

Compliance Determination:
Analyze relevant documentation to ensure an AMC is not mischaracterizing the appraised value of a property.
Consider whether any exceptions in §1639e(c) apply:
The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:
1. Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.
2. Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
3. Correct errors in the appraisal report.
<table>
<thead>
<tr>
<th>No.</th>
<th>Compliance</th>
<th>Statute</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td></td>
<td>$1639e(b)(3)</td>
<td>An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not— seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction.</td>
</tr>
</tbody>
</table>

Comment: No Targeted Value: $1639e(b)(3)

Risk Issue:
Confirm that an AMC is not encouraging a targeted value.

Justification to Audit:
Appraiser independence is integral to appraisal regulation, integrity of the appraisal profession, and the soundness of the real estate market and economy.

Documentation Needed:
- Obtain a list of appraisal assignments from the AMC for the selected audit period.
- Select a random and independent number of appraisal assignments from the list provided and analyze for compliance.
- AMC Policies and Procedures on appraiser independence.
- Records of communications between appraiser and AMC.
- If necessary, signed statements from parties with knowledge of the relevant facts.
- Appraisal order documents.
- Appraisal report submitted, including all drafts.

Compliance Determination:
Analyze appraisal reports, records of the appraisal order, communications, and policies/procedures to ensure an AMC is not encouraging a targeted value.
Consider whether any exceptions in §1639e(c) apply:
The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:
(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.
(2) Provide further detail, substantiation, or explanation for the appraiser’s value conclusion.
(3) Correct errors in the appraisal report.
### 15 U.S.C. §1639e

<table>
<thead>
<tr>
<th>No.</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td></td>
</tr>
</tbody>
</table>

#### Statute

$1639e(b)(4)$

#### Requirement

An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not—

- withhold or threaten to withhold timely payment for an appraisal report or appraisal services rendered when the appraisal report or services are provided in accordance with the contract between the parties.

#### Comment:

**Improper Fee Withholding: §1639e(b)(4)**

- Risk Issue:
  - Confirm that an AMC is timely paying appraisers and not withholding or threatening to withhold payment of an appraiser's fee.

- Justification to Audit:
  - Timely payment is integral to an AMC's duty to facilitate appraisals.

- Documentation Needed:
  - Obtain a list of appraisal assignments from the AMC for the selected audit period
  - Select a random and independent number of appraisal assignments from the list provided and analyze for compliance.
  - AMC Policies and Procedures for appraiser payment.
  - A list of any exceptions to the AMC policy for appraiser payment within the relevant audit period, including an explanation for each exception.
  - Records of communications between appraiser and AMC.
  - If necessary, signed statements from parties with knowledge of the relevant facts.
  - Appraisal order documents.
  - Appraiser payment records.
  - Financial institution records, if applicable.

- Compliance Determination:

  Analyze payment records, communications, policies/procedures and exceptions to ensure timely payment of the appraiser's fee by an AMC. Consider whether any exceptions in §1639e(c) apply.

  The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:

  1. Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.
  2. Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
  3. Correct errors in the appraisal report.
15 U.S.C. §1639e

<table>
<thead>
<tr>
<th>No.</th>
<th>Compliance</th>
<th>Statute</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>No</td>
<td>Yes</td>
<td>N/A</td>
</tr>
</tbody>
</table>

No certified or licensed appraiser conducting, and no appraisal management company procuring or facilitating, an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

Comment: No Conflict of Interest; §1639e(d)

Risk Issue:
Confirm there is no prohibited conflict of interest in the property or appraisal transaction.

Justification to Audit:
Transparency and the lack of any conflict of interest is integral to appraisal regulation, integrity of the appraisal profession, and the soundness of the real estate market and economy.

Documentation Needed:
- Obtain a list of appraisal assignments from the AMC for the selected audit period.
- Select a random and independent number of appraisal assignments from the list provided and analyze for compliance.
- Records of communications between appraiser and AMC.
- AMC Policy on conflicts of interest.
- A list of any exceptions, if any, to the AMC Policy on conflicts of interest during the relevant time period, including an explanation for each exception.
- If necessary, signed statements from parties with knowledge of the relevant facts.
- Appraisal order documents.
- Financial information (e.g., lender, client) about each appraisal assignment.
- Appraisal report submitted, including all drafts with property ownership information.

Compliance Determination:
Analyze appraisal reports, records of the appraisal order, communications, and policies/procedures to ensure no prohibited conflict of interest exists.
## 15 U.S.C. §1639e

<table>
<thead>
<tr>
<th>No.</th>
<th>Compliance</th>
<th>Statute</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.</td>
<td></td>
<td>$1639e(e)</td>
<td>Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.</td>
</tr>
</tbody>
</table>

**Comment:** *Mandatory Reporting: §1639e(e)*

**Risk Issue:**
Confirm that an AMC is complying with the statutory obligation for mandatory reporting.

**Justification to Audit:**
Mandatory reporting of appraiser violation of USPAP, applicable laws, or other unethical or unprofessional conduct is integral to appraisal regulation, integrity of the appraisal profession, and the soundness of the real estate market and economy.

**Documentation Needed:**
- Obtain a list of appraisal assignments from the AMC for the selected audit period.
- Select a random and independent number of appraisal assignments from the list provided and analyze for compliance with USPAP and other applicable laws.
- Obtain a list of reports or complaints filed with state appraiser licensing agencies during the relevant audit period.
- AMC Policy on mandatory reporting.
- A list of exceptions, if any, to the AMC Policy on mandatory reporting granted during the relevant audit period, including an explanation for each exception.
- Appraisal report submitted, including all drafts.
- If necessary, signed statements from parties with knowledge of the relevant facts.

**Compliance Determination:**
Analyze appraisal reports, records of the appraisal order, communications, and policies/procedures to ensure an AMC is complying with the statutory obligation for mandatory reporting.
### 15 U.S.C. §1639e

<table>
<thead>
<tr>
<th>No.</th>
<th>Compliance</th>
<th>Statute</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>7.</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

$§1639e(i)$

Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by known appraisal management companies.

**Comment:** Payment of Customary and Reasonable Fee; §1639e(i)

**Risk Issue:**
Confirms that an AMC is paying a customary and reasonable fee for appraisal services performed by an appraiser.

**Justification to Audit:**
AMC payment of customary and reasonable fees for appraisal services is integral to an AMC’s duty to facilitate appraisals, appraisal regulation, integrity of the appraisal profession, and the soundness of the real estate market and economy.

**Documentation Needed:**
- Obtain a list of appraisal assignments from the AMC for the selected audit period
- Select a random and independent number of appraisal assignments from the list provided and analyze for compliance
- AMC Policies and Procedures on payment of customary and reasonable fees, including an explanation of how an AMC determines if a fee is customary and reasonable
- Appraisal order documents
- Appraiser payment records
- Financial institution records, if applicable
- Records of communications between appraiser and AMC
- If necessary, signed statements from parties with knowledge of the relevant facts
- A list of any exceptions to the AMC Policies or Procedures on payment of customary and reasonable fees within the relevant audit period, including an explanation for each exception

**Compliance Determination:**
Analyze appraisal reports, records of the appraisal order, communications, policies/procedures, and any exceptions to ensure an AMC’s payment of customary and reasonable fees for appraisal services.
National AMC Audit Database

- Create a database for state AMC audit results/reports
  - Hosted by AARO
  - Available to all AARO members
- Benefit – may reduce number of audits for States and AMCs
  - Example (State C adopts a 2-year cycle for compliance audits):
    - In Year 1, if State A audited AMC 1 for compliance with 3 TILA provisions, other states could rely on State A’s audit for those same provisions
    - In Year 2, if State B audited AMC 1 for compliance with remaining 4 TILA provisions, other states could rely on State B’s audit for those 4 provisions
    - In Year 3, State C may only need to repeat Year 1 audit for AMC 1
Summary & Questions

- AMC Audit Requirements
  - Texas
    - TALCB Jurisdiction/Authority for AMC Audits
    - AMC Audit Practices in Texas
  - Federal Law – AMC Rules

- Recommendations
  - Model Template for AMC Audits
  - National AMC Audit Database
Contact Information

Kristen Worman
General Counsel/Deputy Commissioner
Texas Appraiser Licensing & Certification Board
1700 N. Congress Ave, Suite 400
Austin, TX 78701
kristen.worman@talcb.texas.gov
(512) 936-3093