



BJJ

AMC Registry and Fees – Suggested Best Practices for States and AMCs

A MODEST PROPOSAL FOR POTENTIAL IMPLEMENTATION OF THE FEDERAL RULES



Panelists & Moderator

BJJ

- ▶ Douglas E. Oldmixon, TALCB Commissioner
- ▶ David Cherner, Clear Capital
- ▶ Greg Stephens, Valuation Link

- ▶ BJ Jibben, Wyoming Certified Appraiser Board

Roadmap

DEO

- ▶ Relevant Dates & Deadlines
- ▶ Compliance & Consequences
- ▶ Definitions & Quantifications
- ▶ Considerations & Benefits
- ▶ Recommendations & Suggestions

What Does this Date Represent ???

DEO

▶ June 4, 2020

- ▶ ASC will begin to review **ALL** states for compliance with federal AMC rules
- ▶ The date by which a state should be collecting AMC Registry fees and adding AMCs to the National AMC Registry
- ▶ **If a state has significant or intentional non-compliance, and ASC imposes a penalty that includes the state's suspension – AMC will risk forfeiting the right to coordinate assignments for Federally Related Transactions (FRTs)**

So What About Aug 10, 2018?

DEO

▶ **OPT IN**

- ▶ Aug 10, 2018 is the date by which a state must have laws/rules in place that meet the minimum federal requirements for AMC registration and regulation
 - ▶ End of a 3-year implementation period after effective date of AMC final rules
- ▶ OR request ASC with FFIEC concurrence to grant the state a 12 month extension – ASC has asked states to submit extension requests by June 1

▶ **OPT OUT**

- ▶ No FRTs may be coordinated by an AMC in a state that does not meet the minimum federal requirements for the registration and regulation of AMCs

Steps to Minimum Compliance

DC

- ▶ **July 16, 2018 – AMC Registry Opens for States to begin adding AMCs**
- ▶ **August 10, 2018 – States must have AMC regulatory rules in place**
OR
- ▶ **By June 1, 2018, request a one-year extension from ASC if a state is facing obstacles – extension endures until August 10, 2019**
- ▶ So a state must determine to OPT IN or OPT OUT of AMC regulation
 - ▶ and voluntarily notify the ASC – suggested METHOD To Be Determined (soon?)

How Will a Lender Know if an AMC is OK?

DC

- ▶ **NOTE:** Lenders have no requirement to look to AMC Registry as evidence of compliance, but expect them to do so at some point – similar to the National Appraiser Registry
- ▶ If a state has OPTED OUT, then no FRTs may be coordinated by AMC in that state (**How will a lender know? Will the AMC Registry contain such a disclosure?**)
- ▶ Prior to June 4, 2020 – Lenders may verify that an AMC is registered and in good standing with the state where the assigned property is located
- ▶ **NOTE:** Until June 4, 2020, the AMC Registry is a **voluntary** move – no legal obligation for states to add AMCs to the registry
- ▶ After June 4, 2020 – Lenders may also look on the National Registry of AMCs if the state has added AMCs to the registry

What is a Covered Transaction?

GS

- ▶ Defined in Federal Law – but will the AMC's lender client provide information needed by the AMC to determine if the assignment is for a covered transaction?
- ▶ If narrowing the field of all transactions, ask these questions:
 - ▶ Does the service ordered by the Lender or AMC qualify as an "appraisal"?
 - ▶ **State can define differently, but recommend for this purpose all use the federal definition**
 - ▶ Does this assignment involve a financial transaction "secured by the borrower's principal dwelling"?
 - ▶ **This characteristic is the most likely criteria to be accessible to the AMC**
- ▶ Will FFIEC agencies propose policies or rules that will assist AMCs to comply? **Not likely**

Collecting the AMC Registry Fee

GS

- ▶ Ask AMC how many [X] panelists completed an assignment on a **covered transaction** in the **twelve month period** of _____ to _____?
- ▶ **Expect same data to be needed to upload AMC on the registry – for ASC invoice**
- ▶ If only asking once every two years, need to ask the same question again for the other distinct twelve month period
- ▶ Once the [X] number is given, multiply it by \$25 and collect that amount (*for each 12 month period*)
- ▶ Transmit the amount to ASC when state is added to AMC registry and ASC sends an invoice for the relevant fee
- ▶ A state may wish to align the AMC registry fee with AMC state license renewal
 - ▶ *Certainly permissible, but consider disassociating, especially for multiple year licenses*

What is a Twelve Month Period?

DEO

- ▶ Can be any 12 months a state designates – but why be purely arbitrary?
- ▶ 12 month period already required to determine qualifying number of panelists
- ▶ AMCs prefer dates to coincide with other applicable financial reporting period
- ▶ AMCs will need to time to gather and validate the data before reporting
 - ▶ 60-90 days should be sufficient
- ▶ This may argue for a cutoff date separate from the license renewal date

Benefits of Separating AMC Licensing and Registry Listing

DEO

- ▶ Licensing has its own requirements & fees, distinct from fees for the registry
- ▶ Clearly identify these requirements & fees - state vs federal requirements
- ▶ Spread economic burden & administrative impact into different time slots
 - ▶ Both financial payments and data collection burdens for AMCs are spread out
 - ▶ Workload for States are also distributed to ease any potential overload
 - ▶ Ideally, align with with tax data collection time frame & allow validation interval

Other points for this discussion? (AMC perspective)

- ▶ Covered transaction count only applies to an appraisal report (not other valuation products) and only for a loan secured by a consumer's principal dwelling
- ▶ All data requested of an AMC should be certified as accurate "to the best of our knowledge and information" as of a date certain
- ▶ If AMCs need a clear official statement to reassure skeptical lender clients for AMC not appearing on the national AMC Registry prior to June 4, 2020
 - ▶ *see Footnote 2 on ASC Bulletin 2017-01 for relevant language quoted here:*

GS/DC

² While the ASC encourages participating States to begin collecting fees from registered AMCs as soon as possible in accordance with the requirements of Section 1109 of Title XI so that those AMCs may be entered on the AMC Registry, the restriction on performance of services by the State's AMCs for federally related transactions will not impact an AMC so long as the AMC is registered with a participating State or is subject to oversight by a Federal financial institutions regulatory agency.

- ▶ *Any other topics we failed to consider?*

Conclusions and Recommended Next Steps

DEO

- ▶ Key considerations to simplify and align approach to AMC Registry fee collection
- ▶ States should adopt federal definitions as much as possible to reduce complexity and variability (for AMC registry – LIMITED to AMCs per fed def)
- ▶ Allow certification of data “to the best of knowledge” as of a given date
- ▶ Consider using a common 12 month period for counting relevant panelists and assignments on covered transactions
- ▶ Allow 90 day interval between end of 12 month period and reporting date
- ▶ Consider decoupling license renewal and AMC Registry Fee collection to spread both work required of state and AMC and financial impact to AMC

Questions???

BJJ

- ▶ CONTACT INFO

- ▶ Douglas E. Oldmixon - commissioner@talcb.texas.gov
- ▶ David Cherner - dave.cherner@clearcapital.com
- ▶ Greg Stephens – gstephens@valuationlink.com