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RULE ADOPTIONS

Reporter

51 N.J.R. 1124(a)

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Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF REAL ESTATE APPRAISERS

Administrative Code Citation

Adopted Amendments: N.J.A.C. 13:40A-1.1, 1.2, 2.2, 2A.2, 2A.4, 3.2, 7.1, 7.4, 7.9, 7.11, and 8.1

Adopted New Rules: N.J.A.C. 13:40A-9

Text

Rules of Real Estate Appraisers; Appraisal Management Company Rules

Proposed: February 19, 2019, at 51 N.J.R. 200(b).

Adopted: May 15, 2019, by the State Board of Real Estate Appraisers, Joseph Palumbo, President.

Filed: May 24, 2019, as R.2019 d.071, **without change**.

Authority: N.J.S.A. 45:14F-8 and P.L. 2017, c. 72.

Effective Date: July 1, 2019.

Expiration Date: March 20, 2022.

Summary of Public Comments and Agency Responses:

The official comment period ended on April 20, 2019. The Board of Real Estate Appraisers (Board) received comments from:

1. Mark Schiffman, Executive Director, Real Estate Valuation Advocacy Association (REVAA); and

2. James R. Park, Executive Director, Appraisal Subcommittee, Federal Financial Institutions Examination Council.

1. COMMENT: One commenter noted that a number of provisions in the proposed rules regard the addition of an appraiser to a panel, and not adding one who has had a license revoked. The commenter suggested clarifying that these stipulations apply only to an appraiser's performance of services in New Jersey.

RESPONSE: The Board does not believe that the proposed new rules and amendments need to be changed to provide clarification. In accordance with N.J.S.A. 45:14F-28, the rules at N.J.A.C. 13:40A-9 apply to real estate appraisal management companies that employ, contract, retain, or otherwise utilize the services of licensed and certified real estate appraisers to provide appraisal services in New Jersey.

2. COMMENT: One commenter suggested amending N.J.A.C. 13:40A-9.4(e)1 to include language that accommodates the reinstatement of a license that has been denied, cancelled, surrendered in lieu of revocation, or revoked.

RESPONSE: The Board does not have the statutory authority to change the rule to accommodate the reinstatement of a license that has been denied, cancelled, surrendered in lieu of revocation, or revoked. N.J.A.C. 13:40A-9.4(e)1 is consistent with N.J.S.A. 45:14F-36(a)1, which prohibits an appraisal management company (AMC) from applying to the Board for registration if it is owned, in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate in this State or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked.

3. COMMENT: One commenter stated that N.J.A.C. 13:40A-9.6(b)liii is overly broad and does not match most other states. The commenter requested that the Board modify this provision to indicate that it applies to any and all material correspondence.

RESPONSE: The Board declines to change N.J.A.C. 13:40A-9.6(b)liii upon adoption as the commenter suggested because the Board believes that, if there are disputes, it is in the best interest of protecting the public and the AMCs to require AMCs to maintain copies of any and all correspondence between the appraisers, the registered AMC, and any other entity or party related to the assignment.

4. COMMENT: One commenter stated that N.J.A.C. 13:40A-9.7 places responsibility for Uniform Standards of Professional Appraisal Practice (USPAP) too broadly as it applies only to appraisers credentialed by

the State, not non-appraisers. The commenter suggested clarification to ensure consistency with USPAP.

RESPONSE: As set forth at N.J.A.C. 13:40A-9.7, N.J.S.A. 45:14F-44 requires a State-certified or licensed appraiser to ensure that non-appraiser assistance is in conformance with USPAP.

5. COMMENT: One commenter suggested that the Board consider applying N.J.A.C. 13:40A-9.7(a) and (b) to all appraiser activity, not just activity performed for appraisal management companies (except for disclosure of AMC registration number).

RESPONSE: The Board declines applying N.J.A.C. 13:40A-9.7(a) and (b) to all appraiser activity because the Board does not believe such provisions are necessary beyond activities performed for appraisal management companies.

6. COMMENT: One commenter noted that although Federally regulated AMCs may be requested to comply with the reporting requirements at N.J.A.C. 13:40A-9.12(b)2 and 3, a failure to provide the requested information shall not preclude the State's referral of that AMC to the Appraisal Subcommittee.

RESPONSE: The Board appreciates the commenter's input about referrals. Consistent with N.J.S.A. 45:14F-40, N.J.A.C. 13:40A-9.12(b)2 and 3 requires Federally regulated appraisal management companies that are operating in New Jersey to report to the Board the information that the Appraisal Subcommittee requires to be submitted by the State to the Appraisal Subcommittee.

Federal Standards Statement

A Federal standards analysis is not required for the Board's adopted amendments to N.J.A.C. 13:40A-1.1, 1.2, 7.1, 7.9, 7.11, and 8.1 because they are governed by N.J.S.A. 45:14F-1 et seq., and they do not exceed, and in some cases, incorporate by reference, standards and requirements set forth by the Appraiser Qualifications Board, which may be viewed as establishing and setting forth Federal standards and requirements.

The adopted new rules at N.J.A.C. 13:40A-9 are governed by N.J.S.A. 45:14-27 et seq., and are consistent with the minimum standards established by the Dodd-Frank Act. N.J.S.A. 45:14-27 provides the Board with the authority to implement certain provisions of amendments in the Mortgage Reform and Anti-Predatory Lending Act of 2010, Pub. L. 111-203, Subtitle F, Sec. 1473(2) adding Section 1124 to Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. § 3353) (FIRREA), and the Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. §§ 1601 et seq.). In addition, the Board has incorporated by reference or cited Federal standards.

N.J.A.C. 13:40A-9.1 specifies that the rules in Subchapter 9 apply to an appraisal management company in accordance with section 1473(a), (b), and (c) of Subtitle F of the Mortgage Reform and Anti-Predatory Lending Act of 2010, Pub. L. 111-203, amending the Financial Institutions Reform Recovery and Enforcement Act (FIRREA) (12 U.S.C. § 3353). The Board also incorporates by reference the appraiser independence standards established under section 1639e of the Federal Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. § 1639e). In addition, at N.J.A.C. 13:40A-9.2, the terms "appraiser panel," "Federally related transaction regulations," "creditor," and "Federally regulated AMC" each cite to Federal standards, regulations, or definitions. N.J.A.C. 13:40A-9.12 establishes the collection of the AMC National Registry fee as established by the Appraisal Subcommittee at 12 CFR Part 1102, Subpart E. None of these Federal laws, rules, or regulations are exceeded through this rulemaking in New Jersey.

Regulations

Full text of the adoption follow:

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS; SCOPE OF PRACTICE

13:40A-1.1 Purpose and scope

- (a) The rules in this chapter implement the provisions of the Real Estate Appraisers Act, P.L. 1991, c.68, as amended by P.L. 1997, c. 401, and P.L. 2017, c. 72 (N.J.S.A. 45:14F-1 et seq.).
- (b) This chapter shall apply to all persons applying for licensure as a licensed real estate appraiser or certification as a certified residential real estate appraiser or as a certified general real estate appraiser, or for registration as an appraisal management company, and to persons licensed, certified, or registered by the Board of Real Estate Appraisers in the State of New Jersey.

[page=1125] (c) All persons applying for licensure or certification will be required to satisfy the education and experience requirements contained in the Real Property Appraiser Qualification Criteria, which are incorporated herein by reference, as amended and supplemented, and available at http://www.appraisalfoundation.org/imis/TAF/Standards/Qualification_Criteria/Qualification_Criteria_RP_/TAF/AQB_RPAOC.aspx?hkey=5ec61b8d-751b-4a97-90b1-9b3dae51beea, prior to taking the AQB-approved National Uniform Licensing and Certification Examination.

13:40A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Appraisal Qualifications Board (AQB)" means the independent board of the Appraisal Foundation, which under the provisions of Title XI of the Financial Institution Reform, Recovery and Enforcement Act of 1989 (FIRREA) establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state certification or license. The address and phone number of the AQB is 1155 15th Street, NW Suite 1111, Washington, DC 20005, (202) 347-7722. The website for the AQB is www.appraisalfoundation.org.

...

"Uniform Standards of Professional Appraisal Practice (USPAP)" means the published standards set forth by the Appraisal Standards Board of the Appraisal Foundation (1155 15th Street, NW, Suite 1111, Washington, D.C. 20005) (July 1, 2006). The standards include the generally accepted standards of appraisal practice; a history of changes to those standards; all statements on Appraisal Standards; all Advisory Opinions issued for general distribution; a Glossary and an Index. The Uniform Standards of Professional Appraisal Practice are hereby incorporated by reference, as amended and supplemented, in the established rules for the review and interpretation of the competency and practice of appraisers licensed or certified by the Board.

SUBCHAPTER 2. CERTIFICATION OF GENERAL REAL ESTATE APPRAISERS

13:40A-2.2 Eligibility for admission to examination

(a) (No change.)

SUBCHAPTER 2A. CERTIFICATION OF RESIDENTIAL REAL ESTATE APPRAISERS

13:40A-2A.2 Eligibility for admission to examination

(a) (No change.)

13:40A-2A.4 Experience requirements for certification as a residential real estate appraiser

Each applicant applying for certification as a residential real estate appraiser shall complete, by the time the application is submitted to the Board, the experience requirements for a residential real estate appraiser as established by The Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, as promulgated by the AQB of the Appraisal Foundation, which are incorporated herein by reference, as amended and supplemented, as part of this section.

SUBCHAPTER 3. LICENSING OF RESIDENTIAL REAL ESTATE APPRAISERS

13:40A-3.2 Eligibility for admission to examination

(a) (No change.)

SUBCHAPTER 7. GENERAL PROVISIONS

13:40A-7.1 Fee schedule

(a) Charges for credentialing, certification, licensure, registration, and other services are as follows:

1. Application fee:

i.-iii. (No change.)

iv. Appraisal management company..... \$ 250.00

2.-19. (No change.)

20. Initial registration fee, appraisal management company:

i. During the first year of the biennial period..... \$ 2,500

ii. During the second year of the biennial period..... \$ 1,250

21. Biennial registration renewal fee, appraisal management company \$ 2,500

13:40A-7.4 Criteria for qualifying education instructor and USPAP instructors

(a) - (c) (No change.)

(d) Instructors for qualifying education who teach either full time or part time as part of the faculty staff at colleges, universities, community colleges, or junior colleges accredited by the Commission on Higher Education or any real estate appraisal or real estate related organizations that are sponsors of the Appraisal Foundation need not satisfy the criteria set forth in (a) above. Adjunct instructors shall not qualify for this exemption and shall satisfy the criteria in (a) above in order to qualify as an instructor of education courses.

(e) (No change.)

13:40A-7.9 Denial or revocation of license, certification, or registration; record of conviction of certain crimes

(a) An applicant for licensure, certification, or registration shall not be eligible for licensure, certification, or registration, and any holder of a license, certification, or registration shall have his or her license, certification, or

registration revoked if the Board determines that criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being licensed, certified, or registered.

(b) An applicant or a holder of a license, certification, or registration shall be disqualified from licensure, certification, or registration if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

1. In New Jersey, any crime or disorderly persons offense during the five-year period immediately prior to the date of the application or renewal, or any crime more than five years prior to the date of the application or renewal:

i. (No change.)

ii. Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes, forgery and fraudulent practices as set forth in Chapter 21 of Title 2C of the New Jersey Statutes, including, but not limited to, money laundering as set forth in N.J.S.A. 2C:21-25, or perjury and other falsification in official matters as set forth in Chapter 28 of Title 2C of the New Jersey Statutes; or

iii. (No change.)

2. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in (b)1 above. This is deemed to include convictions for bank fraud, wire fraud, or conspiracy to commit bank fraud or wire fraud.

3. For purposes of this subsection, a judgment of conviction or a plea of guilty, non vult, nolo contendere, or any other such disposition of alleged criminal activity shall be deemed a conviction.

(c) Notwithstanding the provisions of (b) above, no individual shall be disqualified from licensure, certification, or registration on the basis of any conviction disclosed by a criminal history record check, other than a conviction for a crime during the five-year period immediately prior to the date of the application or renewal or a crime enumerated in (b)1ii above, if the individual has affirmatively demonstrated to the Board clear and convincing evidence of rehabilitation. In determining whether an individual has affirmatively

demonstrated rehabilitation, the following factors shall be considered:

1.-8. (No change.)

(d) (No change.)

13:40A-7.11 Notification of change of address; service of process

(a) Every licensee, certificate holder, and registrant shall give notice to the Board of any change of his or her address of record within 10 days of such change. For purposes of this section "address of record" means an address designated by a licensee, certificate holder, or registrant that is part of the public record and that may be disclosed upon request. "Address of record" may be a licensee, certificate holder, or registrant's home, business, or mailing address, but shall not be a post office box, unless the [page=1126] licensee, certificate holder, or registrant also provides another address that includes a street, city, state, and zip code.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General, or the Division of Consumer Affairs at the licensee's, certificate holder's, or registrant's address of record shall be deemed adequate notice.

SUBCHAPTER 8. CERTIFICATION OR LICENSURE BY RECIPROCITY

13:40A-8.1 Certification or licensure by reciprocity

(a) Upon receipt of a completed application, application fee, consent to a criminal history record background check, and requisite fee for such a check, the Board shall issue a real estate appraiser license or certification to any person who documents that the person holds a valid, current corresponding license or certification in good standing issued by another state, if:

1. The Board determines that the state that issued the license or certification at the time of issuance meets or exceeds the minimum qualification criteria established by the Appraisal Qualifications Board of the Appraisal Foundation and the standards for licensure and certification as set forth in this chapter; and

2. (No change.)

(b) - (e) (No change.)

SUBCHAPTER 9. APPRAISAL MANAGEMENT COMPANIES

13:40A-9.1 Purpose and scope

- (a) The rules in this subchapter implement the provisions of the Appraisal Management Company Registration and Regulation Act, P.L. 1991, c. 68, as amended and supplemented by P.L. 1997, c. 401 and P.L. 2017, c. 72 (N.J.S.A. 45:14F-27 et seq.).
- (b) Except as provided in (c) below, the provisions of this subchapter shall apply to an appraisal management company in accordance with 12 U.S.C. § 3353.
- (c) The provisions of this subchapter shall not apply to:
1. An employee relocation management company in the course of employee relocation pursuant to its relocation policy; or
 2. A person or entity that exclusively employs appraisers on an employer and employee basis for the performance of appraisals for a variety of clients or intended uses of the appraisal other than mortgage lending consumer credit transactions secured by a consumer's principal dwelling.
- (d) The Board incorporates herein by reference, as amended and supplemented, the appraiser independence standards established under section 1639e of the Federal Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. § 1639e), including:
1. The requirements for payment of customary and reasonable compensation to fee appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer; and
 2. All necessary enforcement and remedies available under the Federal Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. §§ 1601 et seq.).

13:40A-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Appraisal Management Company Registration and Regulation Act, N.J.S.A. 45:14F-27 et seq. (P.L. 2017, c. 72).

"Administrative quality control examination" means an examination of an appraisal report for compliance and completeness, including grammatical, typographical, or other similar errors, which may be performed by a person who is not a State-certified or licensed real estate appraiser, but which shall not include unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate, or any similar function of appraisal practice, including,

but not limited to, those functions in the performance of an appraisal review.

"Affiliate" means any company that controls, is controlled by, or is under common control of another company.

"AMC National Registry" means the registry of state-registered appraisal management companies and Federally regulated appraisal management companies maintained by the Appraisal Subcommittee.

"Appraisal" or "real estate appraisal" means the same as that term is defined at N.J.S.A. 45:14F-2, and shall be specifically construed to include appraisal reviews performed by, for, and on behalf of an appraisal management company.

"Appraisal management company" or "AMC" means a person that:

1. Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;
2. Provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and
3. Within a 12-month calendar year, oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in New Jersey or 25 or more state-certified or state-licensed appraisers in two or more states. For purposes of this definition, the Board will determine the number of state-certified or state-licensed appraisers that are deemed part of the appraisal panel consistent with the provisions of N.J.A.C. 13:40A-9.3.

An AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

"Appraisal management services" means one or more of the following:

1. Recruiting, selecting, and retaining appraisers;
2. Contracting with State-certified or State-licensed appraisers to perform appraisal assignments;
3. Managing the process of having an appraisal performed, including providing administrative services, such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and
4. Reviewing and verifying the work of appraisers.

"Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the Uniform Standards of Professional Appraisal Practice. This term does not include:

1. A general examination for grammatical, typographical, or other similar errors; or
2. A general examination for completeness, including regulatory or client requirements as specified in the agreement process that does not communicate an opinion of value.

"Appraiser" means a State-certified general real estate appraiser, State-certified residential real estate appraiser, or State-licensed real estate appraiser.

"Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an AMC's "appraiser panel" include both appraisers accepted by the AMC for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the AMC to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor, if the appraiser is treated as an independent contractor by the AMC for purposes of Federal income taxation.

"Consumer credit" means credit offered or extended to a consumer primarily for personal, family, or household purposes.

"Controlling person" means:

1. An officer, director, or owner of greater than a 10 percent interest of a corporation, partnership, or other business entity seeking to act as an appraisal management company in this State;
2. An individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with other persons for the performance of services requiring registration as an appraisal management company and has

the authority to enter into agreements with appraisers for the performance of appraisals; or

[page=1127] 3. An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

"Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling.

"Creditor" means:

1. A person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract; or
2. A person who regularly extends consumer credit if the person extended credit, other than credit subject to the requirements for high cost mortgages set forth at 12 CFR 1026.32, more than five times for transactions secured by a dwelling in the preceding calendar year; if a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension that is subject to the requirements of 12 CFR 1026.32 or one or more such credit extensions through a mortgage broker.

"Dwelling" means a residential structure that contains one to four units, whether or not that structure is attached to real property, including an individual condominium unit, cooperative unit, mobile home, or trailer, if it is used as a residence. A consumer can have only one principal dwelling at any one time; a vacation or other second home is not considered a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within one year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this definition.

"Employee relocation management company" means a business entity whose exclusive business services are not for mortgage purposes, but include the relocation of employees as an agent or contractor for the employer or the employer's agent for the purposes of determining an anticipated sales price of the residence of an employee being relocated by the employer in the course of its business.

"Federal financial institution regulatory agencies" includes the Consumer Financial Protection Bureau, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Office of the Comptroller of the Currency, and the National Credit Union Administration.

"Federally regulated AMC" means an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. § 1813 and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.

"Federally related transaction" means the same as that term is defined pursuant to N.J.S.A. 45:14F-2.

"Federally related transaction regulations" means regulations established by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, or the National Credit Union Administration, pursuant to sections 1112, 1113, and 1114 of the Financial Institution Reform, Recovery and Enforcement Act (FIRREA), Title XI, 12 U.S.C. §§ 3341 through 3343.

"Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

"Secondary mortgage market participant" means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

13:40A-9.3 Appraiser panel

- (a) An appraiser is deemed part of the appraisal management company's appraiser panel as of the earliest date on which the appraisal management company:
1. Accepts the appraiser for the appraisal management company's consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or
 2. Engages the appraiser to perform one or more appraisals on behalf of a creditor for covered transactions or secondary mortgage market participant in connection with covered transactions.
- (b) An appraiser who is deemed part of the appraisal management company's appraiser panel pursuant to (a) above is deemed to remain on the panel until the date on which the AMC:
1. Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or
 2. Receives written notice from the appraiser asking to be removed from the appraiser panel or receives written notice of the death or incapacity of the appraiser.
- (c) If an appraiser is removed from an appraisal management company's appraiser panel pursuant to (b) above, but the appraisal management company subsequently accepts the appraiser for consideration for future assignments or engages the appraiser at any time during the 12 months after the appraiser's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption.

13:40A-9.4 Registration

- (a) Each person that directly or indirectly engages, or attempts to engage, in business as an appraisal management company, or advertises or holds itself out as engaging in or conducting business as an appraisal management company, shall obtain a registration from the Board.
1. The registration requirements in this section shall not apply to an appraisal management company that is owned and controlled by an insured depository institution that is regulated by a Federal financial institution regulatory agency.

(b) An applicant for registration as an appraisal management company shall pay the application and registration fee set forth at N.J.A.C. 13:40A-7.1 and file an application on a form provided by the Board. The registration application shall include, but not be limited to, the following information, which shall be certified by the compliance officer of the appraisal management company:

1. The name of the entity or individual seeking registration, and the fictitious name or names, if any, under which it does business in any state;
2. The business address of the entity or individual seeking registration;
3. The telephone number and e-mail address of the entity or individual seeking registration;
4. The name and contact information for the individual's or entity's agent for service of process in this State, if the entity or individual is not a corporation that is domiciled in this State;
5. The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns 10 percent or more of the appraisal management company;
6. The name, address, and contact information for each controlling person;
7. The name, address, e-mail address, and telephone number for one controlling person designated as the main contact for all communication between the appraisal management company and the Board;
8. A certification that the entity or individual has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license or certification in good standing in this State pursuant to N.J.S.A. 45:14F-1 et seq., and this chapter;
9. A certification that the entity or individual requires appraisers completing appraisals, including, but not limited to, appraisals and appraisal reviews, at its request to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation, including the requirements for geographic and product competence;

10. A certification that the entity or individual has a system in place to verify that only licensed or certified appraisers are used for Federally related transactions;
 11. A certification that the entity or individual has a system in place to require that appraisals are conducted independently and free from [page=1128] inappropriate influence and coercion as required by the appraisal independence standards established under section 1639e of the Federal Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. § 1639e), including the requirements for payment of customary and reasonable compensation to fee appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;
 12. A certification, on a form provided by the Board, that the entity maintains a detailed record of each service request that it receives and the name of the appraiser that performs the residential real estate appraisal services for the appraisal management company;
 13. For an entity or individual applicant that is not domiciled in this State, an irrevocable Uniform Consent to Service of Process;
 14. The type of business organization of the appraisal management company; and
 15. For each controlling person or compliance officer who has a license or certification to engage in the practice of real estate appraisal in New Jersey or any other jurisdiction, disclosure of any investigations pending against his or her professional license or certification, and disclosure of any action pending before any employer, association, society, or other professional group related to the practice of real estate appraisal in New Jersey or any other jurisdiction.
- (c) Each applicant for registration shall submit a surety bond in the amount of \$ 25,000, as required pursuant to N.J.S.A. 45:14F-35.
1. The surety bond shall be executed by a surety company authorized to transact business in the State of New Jersey, approved by the Department of Banking and Insurance, and be conditioned on the faithful performance of the provisions of the Act.
 2. The surety bond shall be for a period of 24 months consistent with the biennial registration period.

- (d) Each controlling person of an appraisal management company for registration shall submit the certification and authorization form for criminal history background check, as provided by the Board, and the controlling person's fingerprints as processed by the vendor under contract with the State.
- (e) An appraisal management company applying to the Board for registration in this State shall not:
1. In whole or in part, directly or indirectly, be owned by any person who has had an appraiser license or certification in this State or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked; or
 2. Be subject to the ownership, control, direction, or authority of, or employ, appoint, or otherwise retain, a controlling person who is not of good moral character, which, for purposes of this paragraph, shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a crime relating to the practice of appraisal or any crime involving financial services, fraud, misrepresentation, or moral turpitude. A controlling person shall not have been convicted of the crimes and offenses as set forth at N.J.A.C. 13:40A-7.9.
- (f) Each applicant shall designate one controlling person that will be the designated contact for all communication between the Board and the appraisal management company.
1. A controlling person shall not, at any given time, be designated as the designated contact for more than one appraisal management company.
- (g) Upon registration, the Board shall issue a unique registration number to each appraisal management company registered in this State.

13:40A-9.5 Biennial renewal

- (a) An appraisal management company registrant shall submit to the Board, on a biennial basis, a renewal application and the renewal fee set forth in N.J.A.C. 13:40A-7.1. A registrant that fails to submit the renewal application within 30 days after the registration expiration shall submit the late renewal fee set forth in N.J.A.C. 13:40A-7.1 in addition to the renewal fee. During this 30-day period, the registration shall be valid and the registrant shall not be deemed engaging in the practice of appraisal management without a registration. A registrant who fails to submit a renewal application within 30 days of registration expiration shall have the registration suspended

without a hearing. A registrant that continues to engage in the practice of appraisal management with an expired registration shall be deemed to be engaging in the unauthorized practice of appraisal management and shall be subject to the penalties set forth in N.J.S.A. 45:1-25 et seq.

- (b) The Board shall send a notice of renewal to each registrant, at least 60 days prior to the expiration of the registration. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalty or fines shall apply to the registrant for any unauthorized practice during the period following the permit expiration, not to exceed the number of days short of 60 before the renewal was issued.

13:40A-9.6 Annual certification; AMC responsibilities

- (a) Each State-registered appraisal management company shall certify to the Board, annually, on a form provided by the Board, that it:

1. Requires appraisers completing appraisals, including appraisal reviews, at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence;
2. Has a system in place to verify that only licensed or certified appraisers are used for appraisals covered in this subchapter, including, but not limited to, those performed for Federally related transactions, appraisals pursuant to the provisions of the N.J.S.A. 45:14F-1 et seq., and this chapter;
3. Has a system in place to verify that an individual on the appraiser panel has not had a license or certification as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation;
4. Has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under section 1639e of the Federal Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. § 1639e), including the requirements for payment of customary and reasonable compensation to fee appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer; and
5. Is in compliance with State laws and rules.

- (b) Each State-registered appraisal management company shall certify to the Board, annually, by submission of a statement signed by the appraisal management company, that it maintains a detailed record of each service request that it receives and the name of the appraiser that performs the appraisal for the appraisal management company.
1. Detailed records include, but are not limited to, a copy of:
 - i. The assignment order or service request identifying the end-user client;
 - ii. Each assignment result, including revised reports, addenda, certifications, and any webform communications;
 - iii. Any and all correspondence between the appraisers, the registrant, and any other entity or party related to the assignment;
 - iv. Any copy of any quality control review related to the assignment;
 - v. Any review not consistent with a quality control review;
 - vi. All fee schedules maintained and used by the registrant for the purpose of compliance with the provisions of the Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. § 1639e) relating to customary and reasonable fees. The fee schedules shall be definitive in nature; and
 - vii. Any roster of New Jersey active and approved fee panel appraiser vendors, including the name of the appraiser, each appraiser's State credential number, the date the appraiser was placed on the panel, and the date and reason an appraiser was removed from the panel.
 2. Records shall be retained for a period of at least five years after an appraisal is completed or two years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.
- (c) The annual certifications required under this section shall be submitted to the Board by December 31 of each calendar year.
- (d) Prior to assigning appraisal orders, an appraisal management company shall have a system in place to verify that a person being added to the appraiser panel holds the appropriate State-issued appraiser credential in good standing.
- (e) Each registered appraisal management company shall disclose its Board-issued registration number on all engagement documents presented to the appraiser.

13:40A-9.7 Responsibilities of certified or licensed appraiser

(a) Each State-certified or licensed appraiser performing an appraisal assignment, including an appraisal review, for an appraisal management [page=1129] company, shall be responsible to ensure that the conduct of non-appraiser assistance is compatible with the professional responsibilities of the appraiser under Federal and State laws, rules, and regulations, including, but not limited to, conformance with the Uniform Standards of Professional Appraisal Practice.

1. Non-appraiser assistance shall include, but not be limited to, administrative quality control reviewers who are agents of, contracted by, employees of, or whose services are otherwise utilized by an appraisal management company, appraiser, or organization.

(b) Each State-certified or licensed appraiser shall include on every appraisal performed pursuant to the Act both the appraisal management company registration number and the amount of the fee received by the appraiser for performance of that appraisal.

13:40A-9.8 Removal of appraiser from panel

(a) An appraisal management company shall not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser, without:

1. Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company;

2. Notifying the appraiser of the nature of any alleged conduct or violation, if the appraiser is being removed from the panel for illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or a violation of State licensing standards;

3. Providing the appraiser with any evidence, upon which removal is based, including, but not limited to, any appraisal, appraisal review, or appraisal consulting report; and

4. Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

(b) Any act of a State-certified or licensed real estate appraiser, which constitutes a material violation of the Uniform Standards of Professional Appraisal Practice in the process described in (a) above, shall be considered prima facie

evidence of a violation of the ethics requirements under the Uniform Standards of Professional Appraisal Practice.

1. For purposes of this section, "a material violation" is one that is likely to affect the value estimated in any appraisal utilized in this subsection, or any other act that reflects on the professional conduct of the appraiser.

(c) The Board shall not be involved in contractual disputes between an appraisal management company and an individual appraiser.

13:40A-9.9 Notification to the Board regarding material violation

(a) An appraisal management company shall inform the Board when the appraisal management company has a reasonable basis to believe that an appraiser has committed a material violation of:

1. The Uniform Standards of Professional Appraisal Practice;
2. Applicable laws; or
3. Ethical or professional conduct.

(b) An appraisal management company shall provide the Board with all information in the possession of the appraisal management company in support of any information compiled against an appraiser under this section, including any evidence to support the determination that an appraisal management company has probable cause of a material violation of the Uniform Standards of Professional Appraisal Practice, applicable laws, or ethical or professional conduct.

(c) For purposes of this section, "a material violation" is one that is likely to affect the value assigned to a consumer's principal dwelling.

13:40A-9.10 Payment to appraiser

Each appraisal management company shall, except in bona fide cases of breach of contract or substandard performance of services, make payment to an appraiser for the completion of an appraisal or valuation assignment within 60 days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee, unless a mutually agreed upon alternate arrangement has been previously established, which agreement shall be considered to be under the appraiser independence requirements of section 1639e of the Federal Truth in Lending Act, Pub. L. 90-321 (15 U.S.C. § 1639e).

13:40A-9.11 Prohibited acts

(a) No employee, director, officer, agent, independent contractor, or other third-party acting on behalf of an appraisal management company shall:

1. Procure or attempt to procure a registration or renewal by knowingly making a false statement, submitting false information, or refusing to provide complete information in response to a question in an application for registration or renewal;
2. Willfully violate N.J.S.A. 45:14F-1 et seq., or this chapter;
3. Improperly influence, or attempt to improperly influence, the development, reporting, result, or a review of an appraisal through intimidation, coercion, extortion, bribery, or any other manner, including:
 - i. Withholding payment for appraisal services;
 - ii. Threatening to exclude an appraiser from future work or threatening to demote or terminate in order to improperly obtain a desired result;
 - iii. Conditioning payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached; or
 - iv. Requesting that an appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person or entity;
4. Alter, amend, or change an appraisal report submitted by an appraiser without the appraiser's knowledge and written consent;
5. Remove an independent appraiser from an appraiser panel without prior written notice to the appraiser, with the prior written notice including evidence of the following, if applicable:
 - i. The appraiser's illegal conduct;
 - ii. A violation of the Uniform Standards of Professional Appraiser Practice, the Act, or this chapter;
 - iii. Improper or unprofessional conduct; and
 - iv. Substandard performance or other substantive deficiencies;
6. Require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its

agents or employees for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser;

7. Prohibit lawful communications between the appraiser and any other person who the appraiser, in the appraiser's professional judgment, believes possesses information that would be relevant;
 8. Engage in any other act or practice that impairs or attempts to impair a real estate appraiser's independence, objectivity, and impartiality;
 9. Fail to timely respond to any subpoena or any other request for information;
 10. Fail to timely obey an administrative order of the Board; or
 11. Fail to fully cooperate in any investigation.
- (b) Except for an individual conducting an administrative quality control examination to each employee of, or independent contractor to, an appraisal management company that performs a USPAP Standard 3 review of an appraisal report on property located in this State shall be an appraiser with the proper level of licensure or certification as required by this chapter.
- (c) An appraisal management company that engages in any of the prohibited acts set forth in (a) above may subject the registrant to denial, suspension, or revocation of registration, or the levying of fines or imposition of civil penalties in accordance with N.J.S.A. 45:14F-49(a).

13:40A-9.12 Imposition, collection of Federal fees; reporting requirements

- (a) With respect to reporting requirements for non-Federally regulated appraisal management companies, the Board will collect from each AMC registered, or each AMC seeking to be registered, in the State, the information and fees that the Appraisal Subcommittee requires to be submitted to it by the State.
- (b) With respect to reporting requirements for Federally regulated appraisal management companies, a Federally regulated AMC operating in the State shall report to the Board, the information required by the Appraisal Subcommittee to be

submitted by the State to the Appraisal Subcommittee. These reporting requirements shall include:

1. A report to the Board on a form prescribed by the Board of the AMC's intent to operate in this State;

[page=1130] 2. Information related to whether the AMC is owned in whole or in part, directly or indirectly, by any person who has had an appraiser license or certification refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause, as determined by the Appraisal Subcommittee; and

2. If a person has had action taken on his or her appraisal license, the Board shall collect information related to whether the license was revoked for a substantive cause and if it has been reinstated by the state or states in which the appraiser was licensed or certified.

(c) The Board shall collect from a Federally regulated AMC operating in the State, for submission to the Appraisal Subcommittee, the AMC National Registry fee as established in accordance with 12 CFR Part 1102, Subpart E.