

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS
Subchapter D. APPRAISAL MANAGEMENT COMPANIES

GENERAL PROVISIONS

§ 36.301. Definitions.

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

“Act”—The Appraisal Management Company Registration Act, act of February 2, 2012, No. 4 (63 P. S. §§ 459.1-459.12).

“Appraiser Qualifications Board” or “AQB”—The board appointed by The Appraisal Foundation, which promulgates education, experience, and other criteria for licensing, certification and recertification of qualified appraisers.

“Assignment”—As defined by the Uniform Standards of Professional Appraisal Practice, an agreement between an appraiser and a client to provide a valuation service and the valuation service that is provided as a consequence of such an agreement.

“Automated valuation model” or “AVM”—As defined by section 1125(d) of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, the act of August 9, 1989 (Pub.L. 101-73, 103 Stat. 183), as amended, is any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling.

“Board Administrator”—An employee of the Commonwealth with responsibility to administer the business of the Board, or other subordinate staff to assist such person.

“Broker price opinion” or “BPO”—As defined by section 1126(b) of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, the act of August 9, 1989 (Pub.L. 101-73, 103 Stat. 183), as amended, is an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an AVM.

“Bureau”—The Bureau of Professional and Occupational Affairs of the Department of State.

“Criminal History Record Information Act” or “CHRIA”—The act of July 16, 1979, P.L. 116, No. 47 (18 Pa. C.S. §9101-9183).

“Compliance person”—An individual who is employed, appointed or authorized by an appraisal management company to be responsible for ensuring compliance with this act.

“Conviction”— An ascertainment of guilt of the accused and judgment thereon by a court, and includes a disposition of a criminal proceeding under Pennsylvania law, or any similar disposition under the laws of another jurisdiction, by a plea of guilty, guilty but mentally ill, or nolo contendere; or a verdict of guilty, or guilty but mentally ill. “Conviction” does not include an adjudication of delinquency pursuant to the Juvenile Act (42 Pa. C. S. A. §§ 6301 – 6375).

“Department”—The Department of State.

“Exempt company”—A person that is exempted from registering under this act under section

1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

“FIRREA”--The Financial Institutions Recovery, Reform, and Enforcement Act of 1989, the act of August 9, 1989 (Pub.L. 101-73, 103 Stat. 183), as amended.

“Key person”--A person other than a compliance person who is a director, officer, supervisor, manager or other person performing a similar function in an appraisal management company.

“NRSRO”— A designated Nationally-recognized statistical rating organization of the United States Securities and Exchange Commission or its successor.

“Order”—When used in the context of the contractual relationship between an appraiser and an AMC, an agreement between an appraiser and an AMC that pertains to a specified valuation assignment, including a disclosure of the amount of the appraisal fee, the terms and time frame for payment, and the AMC registration number.

“Owner”—A person that owns 10 percent or more of an appraisal management company.

“Real Estate Appraisal Reform Amendments” or “REARA”—Title XI of FIRREA, 12 U.S.C. 3331-3351.

“Secretary”—The Secretary of the Commonwealth or a designee.

“Solicit” or “solicitation”—An offer to contract with an appraiser to perform an appraisal, or an offer to an appraiser to be included in an appraisal management company’s roster or panel of appraisers.

“Supervisor”—An individual who is an agent of an appraisal management company and who has

the authority to do one or more of the following:

- (1) Enter into a contract with clients for the performance of appraisal services.
- (2) Solicit or enter into an agreement for an assignment with independent appraisers.
- (3) Possess the power to direct or cause the direction of the management or policies

of the appraisal management company.

“The Appraisal Foundation” -- The entity identified in Section 1121 of Title XI of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, as amended.

“TILA”—The Truth in Lending Act, 15 U. S. C. §§ 1601 – 1667f, Pub.L. 90-321, Title I, § 102, May 29, 1968, 82 Stat. 146, as amended.

“USPAP”—Uniform Standards of Professional Appraisal Practice.

§ 36.302. Applicability of general rules.

Pursuant to 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to the general rules of administrative practice and procedure) is applicable to the activities of and proceedings before the Board.

§ 36.303. Application procedures.

(a) Application form. An applicant for registration as an appraisal management company shall complete and file with the Board an application in a form that the Board will prescribe, publish on its website at www.dos.pa.gov/real, and distribute without fee in response to request by writing, telephone, or electronic mail at Post Office Box 2649, Harrisburg, PA 17105-2649,

(717) 783-4866, or ST-APPRAISE@pa.gov, respectively.

(b) Application fee. The initial application fee for registration as an appraisal management company is nonrefundable, shall be in the amount set forth in § 36.305 (relating to fees), and in the form of a check or money order made payable to the “Commonwealth of Pennsylvania.”

(c) Filing of application. An application is filed with the Board on the date that it is received in the office of the Board.

(d) Preliminary review of application.

(1) Upon filing of an application with the Board, the Board Administrator will review the application in the order that it was received to determine whether:

- (i) The application is complete.
- (ii) The information set forth in the application is true and correct.
- (iii) The application contains any information that may disqualify the applicant for registration as an appraisal management company.

(2) In performing a preliminary review of the application the Board Administrator may:

- (i) Consult other offices of the Bureau or Department.
- (ii) Obtain advice of counsel.
- (iii) Investigate or review public records.

(e) Approval of applications. If the Board Administrator finds that the application is complete, has no basis to believe that the information is not true and correct, and that the

information contained therein qualifies the applicant for registration as an appraisal management company, the Board Administrator will issue a registration certificate by mail to the address of record set forth in the application.

(f) Deficient applications. If the Board Administrator finds that the application is not complete, has a basis to believe that the information is not true and correct, that the application lacks sufficient information to qualify the applicant for registration, or contains information that may disqualify the applicant as an appraisal management company, the Board Administrator may exercise one or more of the following options:

- (1) Issue a notice to the applicant.
- (2) Refer the application to the Board for disposition.
- (3) Refer to an office within the Bureau for investigation, review or other action.

(g) An administrative determination by the Board Administrator that the application is deficient is not a final order of the Board.

(h) The notice issued pursuant to subsection (f)(1) of this section will be issued pursuant to the following terms:

- (1) The notice will be in writing and mailed to the applicant's mailing address of record.
- (2) The applicant will have 1 year from the date of mailing of the notice to correct the deficiencies described in the notice or to request reconsideration.

- (3) A request for reconsideration shall include matter that had not been considered in the initial review of the application, including but not limited to:
- (i) A statement of facts or law.
 - (ii) Additional documents.
- (4) Within 1 year from the date of notice of deficiency issued under (f)(1) of this subsection, the applicant may request, in writing, a hearing before the Board to appeal the action of staff as provided in 1 Pa. Code §35.20 (relating to appeals from actions of the staff). A request for reconsideration under paragraph (3) of this subsection will not suspend the period to request a hearing to appeal the action of staff.
- (5) If an applicant does not correct the deficiencies set forth in the notice issued by the Board within 1 year from the date of mailing of the notice of deficiency, the application will be deemed withdrawn by operation of law without further notice or order of the Board.
- (i) Disposition by Board. After notice of deficiency, the Board will consider an application upon referral by the Board Administrator or appeal by the applicant pursuant to 1 Pa. Code § 35.20 (relating to appeals from actions of the staff) and may:
- (i) Approve the application.
 - (ii) Request additional information from the applicant.
 - (iii) Provisionally deny the application.
 - (iv) Enter a final order denying the application.

(j) Provisional denial. If the Board provisionally denies an application, the Board will notify the applicant, in writing, of:

- (1) The reason or reasons for provisional denial.
- (2) The applicant's right to request in writing appeal of the provisional denial and a hearing before the Board.
- (3) The applicant's rights under the General Rules of Administrative Practice and Procedure.
- (4) The failure to request reconsideration within 30 days of the date of notice of provisional denial will constitute an admission by the applicant of the basis for provisional denial and will result in the provisional denial of the application being deemed final without further notice or order of the Board.

(k) Compliance with new requirements. An applicant shall comply with any requirements for registration that take effect between the applicant's filing of an initial application and the issuance of registration.

§ 36.304. Content of application.

(a) An application for registration as an appraisal management company shall include:

- (1) Primary information of the appraisal management company, including:
 - (i) Legal name.
 - (ii) Mailing address, which shall be the address of record.
 - (iii) Street address, if different from the mailing address.

- (iv) Primary telephone number.
- (2) Secondary information of the appraisal management company, including:
- (i) State or place of incorporation or organization.
 - (ii) If the applicant is not an individual and is incorporated or otherwise formed under the laws of a jurisdiction other than this Commonwealth, documentation that the applicant is authorized to transact business in this Commonwealth.
 - (iii) Each fictitious name under which the applicant trades or does business in this Commonwealth.
 - (iv) Website address.
 - (v) Primary electronic mail address.
 - (vi) Fax number.
 - (vii) Each state or jurisdiction in which applicant is registered as an appraisal management company.
 - (viii) Whether the applicant commenced offering appraisal management services before the effective date of these regulations, and if so, the month and year on which the applicant commenced offering appraisal management services in this Commonwealth.
 - (ix) Owner information, including for each owner:
 - (A) Legal name.

- (B) Street address.
 - (C) Telephone number.
 - (D) Email address.
- (3) Key person information, including for each key person:
- (i) Legal name.
 - (ii) Mailing address.
 - (iii) Street address, if different from the mailing address.
 - (iv) Telephone number.
 - (v) Title or titles and each status that qualifies the person as a key person, including any one or more of the following:
 - (A) Officer.
 - (B) Director.
 - (C) Manager, supervisor, or similar function or title.
 - (vi) Email address.
 - (vii) Whether the key person is an owner.
- (4) Compliance person information, including:
- (i) Legal name.
 - (ii) Mailing address, if different from the applicant's mailing address.
 - (iii) Residential address.
 - (iv) Telephone number.

- (v) Email address.
- (vi) Title or titles.
- (vii) Each certificate or license held for the practice of real estate appraising, if any, including the state or jurisdiction of issuance.
- (viii) Whether the compliance person is an owner.

(5) Disciplinary history of the applicant, each owner, key person and the compliance person, including:

- (i) Any discipline imposed in this Commonwealth or any other jurisdiction under any law regulating appraisers, appraisal management companies or real estate brokers or salespersons.
- (ii) Any discipline imposed in this Commonwealth or any other jurisdiction under any law regulating mortgage brokers or salespersons, the sale of securities, the practice of law or the practice of accounting.
- (iii) A verification by each owner or key person subject to penalties of 18 Pa. C. S. § 4904 (relating to unsworn falsification to authorities) that the disciplinary history is true and correct.

(6) An official criminal history record information report from the Pennsylvania State Police or other state agency for each state in which the applicant, owner, key person or compliance person has resided for the 5 year period immediately preceding the date of application.

(7) A surety bond or letter of credit in the form and the amount required by §§36.351 – 36.356 of this subchapter.

(b) The individual designated by the applicant as compliance person shall certify that the applicant:

(1) Has a system in place to verify that a person being added to an appraiser panel of the applicant or who will otherwise perform appraisals for the applicant of property located in this Commonwealth is a certified appraiser and in good standing in this Commonwealth under REACA.

(2) Has a system in place for the performance of appraisal reviews with respect to the work of all appraisers that are performing appraisals for the applicant of property located in this Commonwealth to determine whether the appraisals are being conducted in conformance with the minimum standards under REACA both on a periodic basis and whenever requested by a client.

(3) Maintains a detailed record of each request for an appraisal that it receives, the appraiser assigned to perform the appraisal, the fees received from the client for the appraisal and the fees paid to the appraiser.

(4) The individual designated as the compliance person in the application has the authority to file the application and verify the contents of the application subject to the penalties of 18 Pa. C. S. § 4904 (relating to unsworn falsification to authorities), and 18 Pa. C. S. § 4911 (relating to tampering with public documents).

(c) The individual designated as the compliance person shall sign the application and verify that the contents of the application have been made subject to the penalties of 18 Pa. C. S. § 4904 (relating to unsworn falsification to authorities), and 18 Pa. C. S. § 4911 (relating to tampering with public documents).

§ 36.305. Expedited review.

(a) An applicant who may qualify for temporary authority under §36.315 (relating to temporary authority to conduct business) may file a request for expedited review verified by the designated compliance person subject to the conditions set forth in this section.

(b) The applicant shall file a written request with the Board concurrently with the filing of the application, which shall include the following averments:

(1) Neither the applicant nor any owner or key person are disqualified under Section 10(a)(2) through (7).

(2) The applicant commenced offering appraisal management services in this Commonwealth before the effective date of this subchapter.

(3) The applicant requires expedited review of its application to avoid interruption of its authority to conduct business in this Commonwealth.

(4) The applicant acknowledges that if the application is provisionally denied by the Board, it must discontinue offering appraisal management services in this Commonwealth on the date of the provisional denial.

(5) The averments set forth in the request for expedited review are made subject to

the penalties of 18 Pa. C. S. §4904 (relating to unsworn falsification to authorities).

(c) Concurrently with the filing of the application, the applicant shall serve copies of the petition and the application by mail upon the Legal Office, Prosecution Division, and Legal Office, Counsel Division at the following addresses:

(1) Prosecution Liaison for State Board of Certified Real Estate Appraisers
 Department of State
 Commonwealth of Pennsylvania
 2601 North 3rd St.
 P.O. Box 2649
 Harrisburg, PA 17105-2649

(2) Counsel for State Board of Certified Real Estate Appraisers
 Department of State
 Commonwealth of Pennsylvania
 2601 North 3rd St.
 P.O. Box 2649
 Harrisburg, PA 17105-2649

(d) The Board Administrator will conduct a preliminary review of the application no later than 10 business days after the filing of the application and approve or refer the matter to the Board for disposition.

(e) If the application is referred to the Board for disposition, then the application will be presented to the Board at its next regularly scheduled meeting of the Board but no sooner than 15 business days after the date of application.

§ 36.306. Fees.

Description	Fee
Initial Registration	\$2,000.00
Biennial Registration Renewal	[RESERVED]
Notice of change in corporate organization	\$35.00

Letter of good standing/verification of registration	\$15.00
Notification of change in key person or compliance person	\$35.00
Late fee for renewal	[RESERVED]
Late fee for reinstatement per month of delinquency	\$50.00
Fee for expedited review	\$500.00

REGISTRATION

§ 36.311. Qualifications for registration as appraisal management company.

(a) An appraisal management company shall be authorized to conduct business in this Commonwealth and shall establish and maintain the requirements set forth in this section during any period in which it offers or provides appraisal management services.

(b) An appraisal management company shall have a compliance person.

(c) An appraisal management company shall establish and maintain procedures that provide a reasonable degree of assurance of compliance with the following standards of appraisal management services:

- (1) Prevention of conduct or practices that compromise appraiser independence.
- (2) Verification of appraiser certification and qualifications.
- (3) Review of appraisal services for compliance with USPAP.
- (4) Fair process for resolution of consumer complaints.
- (5) Fair process for resolution of appraiser complaints.

§36.312. Qualifications of owners and key persons.

(a) A person who would be disqualified from eligibility to be certified or licensed

under the REACA as defined in subsection (b) may not be an owner or a key person.

(b) An individual would be disqualified from eligibility to be certified or licensed under the REACA as provided in section 8(d)(1) of the act if the individual has been refused, denied, cancelled, suspended, revoked or has voluntarily surrendered a license or certificate under any of the following provisions of the REACA or CHRIA, or similar provision of another jurisdiction:

- (1) Section 3 of the REACA, 63 P. S. 457.3.
- (2) Section 6(c)(1) of the REACA, 63 P. S. §457.6(c)(1).
- (3) Section 11 of the REACA, 63 P. S. § 457.11.
- (4) Section 9124 of CHRIA, 18 Pa. C. S. 9124(c)(1), (2).

(c) Nothing in the act or these regulations may be construed as a requirement that an owner or a key person shall possess the education or experience required by AQB or the REACA for certification or licensure.

(d) A person who has been suspended, revoked or voluntarily surrendered a license under RELRA, the provisions of 7 Pa.C.S. Ch.61 (relating to mortgage loan industry licensing and consumer protection) or the Mortgage Bankers and Brokers and Consumer Equity Protection Act may not be an owner or key person.

§36.313. Qualifications of compliance person.

(a) In addition to the qualifications set forth in § 36.312 (relating to qualifications of owners and key persons), a compliance person shall hold the qualifications set forth in this section.

(b) A person designated as a compliance person by an appraisal management company shall possess the authority as a matter of law to:

(1) Enter into an agreement with this Board to bind the appraisal management company to comply with requirements of the act, this subchapter, FIRREA, REACA, REARA or TILA.

(2) Sign any report, application, form, notice or other document required to be filed with the Board.

(3) Certify, verify or otherwise attest as required by law to the contents of any document or pleading filed with the Board.

(c) A compliance person may not have a history of:

(1) Conviction as provided in section 10(a)(5) of the act.

(2) Disciplinary action or disposition of an administrative or a civil proceeding as described in section 10(a)(2), (3), (4), (6) or (7) of the act, or a similar provision of a law or regulation of another jurisdiction, resulting in refusal, denial, cancellation, restriction, probation, suspension, voluntary surrender or revocation of the authority or privilege to practice.

(d) An individual who acts as a compliance person will be deemed to have vacated the position upon any of the following conditions:

(1) Death.

(2) Occurrence of a condition defined in subsection (c) of this section.

(3) Termination of employment or contractual relationship by either the compliance person or the appraisal management company.

(e) During a period of less than 30 days for excused illness, absence or vacation of a compliance person an appraisal management company may designate another key person to fulfill the duties of compliance person without notice to the Board.

(f) An absence or vacancy in the position of compliance person greater than 30 days shall be cause for suspension of an appraisal management company's authority to conduct business until a compliance person has been designated and notice of the change has been filed with the Board as provided in §36.314, relating to reporting change of information.

§36.314. Reporting change of information.

(a) A registrant shall report a vacancy or change in qualifying information as required in this section on forms prescribed by the Board.

(b) A registrant shall report a vacancy or change of compliance person within 7 days of the date that the compliance person terminates.

(c) A registrant shall report a change in the information required under §36.304 within 30 days.

§36.315. Temporary authority to conduct business.

(a) An appraisal management company that is not exempt from the act and which commenced offering appraisal management services in this Commonwealth on or before December 31, 2011 and which has continued to offer appraisal management services without interruption since December 31, 2011 may offer appraisal management services without registration after the effective date of this subchapter if:

(1) An application has been filed with the Board.

(2) The appropriate fee has been paid.

(3) The individual who signed the application in the capacity of the compliance person continues to act as compliance person until the application is approved, deemed withdrawn, provisionally denied or denied by final order.

(4) The application has not been:

- (i) Deemed withdrawn.
- (ii) Provisionally denied.
- (iii) Denied by final order.
- (iv) Approved.

(b) An appraisal management company that is not exempt from the act and which commenced offering appraisal management services in this Commonwealth after December 31, 2011, or which commenced offering appraisal management services in this Commonwealth on or before December 31, 2011 but discontinued offering appraisal management services after December 31, 2011, may not offer appraisal management services in this Commonwealth, unless the appraisal management company has filed a petition for expedited review, paid the additional fee and has not been denied.

(c) Authority to practice temporarily without registration under this section terminates on the date that an application has been:

- (1) Deemed withdrawn.

(2) Provisionally denied.

(3) Denied by final order.

(4) Approved.

(d) For purposes of this section, an appraisal management company has continued to offer appraisal management services in this Commonwealth without interruption since December 31, 2011 if it has made at least one appraisal assignment in each calendar month for real property located in this Commonwealth, and it has maintained records as required by this subchapter for each appraisal assignment made since December 31, 2011.

RENEWAL OF REGISTRATION

§36.321. Expiration of registration.

Registration expires on the first day of September of each even-numbered year.

§36.322. Procedures for renewal.

[Reserved].

§36.323. Early termination of registration.

(a) A registrant may terminate registration prior to the expiration of the biennial registration period by filing with the Board a notice in a form prescribed by the Board.

(b) A notice of termination of registration shall include:

(i) The date on which the registrant will cease to offer or provide appraisal management services.

(ii) An acknowledgment that the registrant or its successor remains subject to

disciplinary action for acts, errors or omissions occurring before the termination of registration.

(iii) The signature of the compliance person.

(iv) The mailing address of the registrant.

(v) If the registrant is terminating its existence, documentation of the dissolution, acquisition or merger of the registrant by or with another entity.

(vi) If the registrant terminates registration because it has become exempt from registration under the act, documentation in support of the basis for exemption.

(vii) An acknowledgment that the surety bond or letter of credit will remain subject to claims pursuant to the procedures established in §§ 36.351 – 36.356 of this chapter.

(c) The date on which the registrant terminates registration may not be any sooner than the date on which the notice is filed with the Board.

(d) The termination of registration by the Board upon filing of a notice will not be construed as an admission by the Board or this Commonwealth that the contents of the notice are true and correct.

(e) The Bureau may at any time after the filing of a notice of termination pursuant to this section commence a disciplinary action against a former registrant for a violation of section 3 of the act, 63 P. S. § 457.23 (relating to registration of appraisal management companies required).

- (f) The surety bond or letter of credit will remain in effect after termination.

STANDARDS OF PRACTICE

§ 36.331. Compliance with USPAP.

(a) An appraisal management company shall require that appraisal assignments be completed in compliance with USPAP.

(b) An appraisal management company shall establish a system to review appraisal assignments which is reasonably calculated to assure compliance with USPAP by appraisers.

(c) An appraisal management company may not solicit, offer, accept an offer, or contract for, a valuation service that violates REACA, RELRA, FIRREA, this act or this subchapter.

§36.332. Verification of appraiser certification.

An appraisal management company shall establish and maintain a system to verify that appraisals are completed by an appraiser who possesses a class of certification issued by the Board that authorizes appraisal of the real property that is the subject of the appraisal and which is current and valid.

§36.333. Appraisal reviews.

- (a) Appraisal reviews shall be performed in accordance with USPAP.
- (b) An examination of an appraisal report for grammatical or typographical errors or for completeness is not required to comply with USPAP.

§36.334. Broker price opinions.

A BPO constitutes the practice of appraising in violation of REACA.

§36.335. Record keeping.

(a) Each appraisal management company shall maintain the following records:

(1) A record of each assignment that it has ordered for appraisal of real property located in this Commonwealth, which shall include the following:

(i) The order between the appraisal management company and the appraiser.

(ii) Each appraisal report received from an appraiser, including the original report, any revised reports, and any addenda or other materials furnished subsequent to the delivery of the original report.

(iii) All written communication between the appraiser and the appraisal management company and any other entity involved in the transaction.

(iv) The order engaging another appraiser for the purpose of reviewing the appraisal.

(v) Any review of the appraisal performed, including any data supporting the selection of the appraisal for review, the original review report, subsequent correspondence between the reviewer and appraisal management company, and each subsequent revised review report.

(vi) Written communications between the appraisal management company and its client, including all documents supplied to that client.

(vii) A record of fees disbursed to contracted appraisers and the fee received by the

appraisal management company from the appraisal management company's client.

(2) Appraiser fee schedules, including:

- (i) Fees paid for a defined service.
- (ii) Documentation to support that the fee schedule is customary and reasonable and

complies with TILA.

- (iii) Payment policies, including time for payment of appraisal fees.
- (iv) The effective dates of the schedule.

(3) Rosters or panels of appraisers used for assignments in this Commonwealth, including:

- (i) The name of each appraiser.
- (ii) The appraiser's certificate number.
- (iii) The date the appraiser was placed on the roster or panel.
- (iv) Region or area in which the appraiser's service may be used.
- (v) If the appraiser is removed from the roster or panel, the date and reason for

removal.

(b) Appraisal management companies shall maintain the records set forth in paragraph (a)(1) of this section for a period of 5 years, commencing on the latest of the following:

- (1) Date of final action of the assignment.
- (2) If the appraisal management company is notified that the transaction is the subject

of a court proceeding, or an administrative proceeding by the Board, the date of final disposition of such proceeding.

(c) Appraisal management companies shall produce for inspection and copying by the Board within 10 days, any record herein required to be maintained by the act or this subchapter.

§ 36.336. Requirements for solicitation or order of appraisals.

(a) An appraisal management company shall include in an order or solicitation for appraisal services:

- (1) The fee to be paid to the appraiser for the appraisal assignment.
- (2) The terms for time of payment for appraisal services.
- (3) The appraisal management company's registration number.

(b) An appraisal management company may satisfy the requirements of subsection (a) by one of the following means:

- (1) A legible statement of the required information on an order or solicitation for an appraisal assignment.
- (2) A legible reference to an existing written agreement between the appraisal management company and the appraiser that includes the required information.

§36.337. Duties of compliance persons.

(a) Responsibility of the appraisal management company. An appraisal management company shall be subject to disciplinary action pursuant to the act and this subchapter for the acts or omissions of a compliance person who fails to perform a duty set forth in this section.

(b) A compliance person shall exercise reasonable care to assure compliance of an appraisal management company with Section 8 of the act.

(c) An appraisal company, acting through its compliance person shall report to the Bureau, directly or through another agent of the appraisal management company, any violation as defined by section 129E(e) of the Truth in Lending Act, section 1472(a), P.L. 111-203, Title XIV, 15 U.S.C. § 1639e(e), relating to appraisal independence requirements.

(d) A compliance person who has a reasonable basis to believe that an appraisal management company, its employee or agent has violated appraisal independence shall report the matter to the Bureau.

DISCIPLINARY ACTION

§36.341. Prohibited acts.

(a) The Board may impose one or more sanctions authorized under the act if the Board finds that an appraisal management company, key person or compliance person violated the act or this chapter.

(b) The following acts, errors or omissions constitute a violation of the standards of conduct of an appraisal management company:

- (1) Violation of a provision of the act or this subchapter.
- (2) Violation of FIRREA or TILA.
- (3) Violation of a statute or regulation of another jurisdiction regulating appraisal

management companies.

§36.342. Coercive acts or practices.

(a) The following acts constitute a coercive act or practice *per se* in violation of the act and this chapter, without proof of intent of the appraisal management company or its agent:

- (1) A requirement that the appraiser collect a fee from a borrower.
- (2) A requirement that the appraiser provide access to the appraiser's digital signature.
- (3) A prohibition on the appraiser to report the fee for the appraisal services.
- (4) A prohibition on the appraiser to note or report real property appraisal assistance.
- (5) Nonpayment of, or refusal to pay for appraisal services rendered for a reason other than the breach of agreement by the appraiser.
- (6) A clause or provision in an order requiring an appraiser to indemnify or hold harmless for acts or omissions of a person other than appraiser.
- (7) A clause or provision in an order requiring an appraiser to have a duty to defend the appraisal management company in a civil action or proceeding.
- (8) Removal of an appraiser from the roster or panel of appraisers without notice and opportunity for rebuttal.
- (9) A request to an appraiser to provide comparable properties for a specified property prior to completion of appraisal report.

(b) The following acts if committed with the intent to influence or attempt to influence the development, reporting, result or review of an appraisal constitute a coercive act or practice in violation of the act and this chapter:

(1) A pattern or course of conduct involving repeated review of appraisals that are not performed pursuant to the appraisal management company's policy for appraisal reviews.

(2) A limitation on the time of completion of an appraisal assignment that impairs the credibility of the report. For purposes of this paragraph, a time limitation or deadline established for the purpose of completing the assignment in order to complete a transaction by a date established by agreement of parties other than the appraisal management company does not constitute a coercive act or practice.

(3) A delay in payment for appraisal services that violates the appraisal management company's policy for payment.

SURETY BONDS AND LETTERS OF CREDIT

§ 36.351. Requirements for surety bond or letter of credit.

(a) A registrant shall maintain a surety bond or letter of credit in the form and amount prescribed in this subchapter.

(b) A surety bond shall be in the amount prescribed in §36.352(a), relating to the amount of the surety bond or letter of credit, and in the form prescribed by §36.353, relating to form of surety bond, and issued by a company authorized to transact surety business in this Commonwealth by the Insurance Department and shall possess a current A. M. Best Rating of A- or better or a Standard & Poor's insurer's financial strength rating of A or better or a comparable rating by another NRSRO.

(c) A letter of credit shall be in the amount prescribed in §36.352(b), relating to the

amount of the surety bond or letter of credit, and in the form prescribed by §36.354, relating to form of letter of credit, and payable at an office of a commercial bank located in the United States of America, and at the time of issuance of the letter of credit, the issuing bank or its holding company shall have a B/C or better rating or 2.5 or better credit evaluation score by Fitch Ratings, as successor to the rating services of Thomson BankWatch, or the issuing bank shall have a CD or long-term issuer credit rating of BBB or better or a short-term issuer credit rating of A-2 or better by Standard & Poor's or a comparable rating by another NRSRO.

(d) For purposes of this section and §§ 36.352 – 356, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

“Claimant”—This Commonwealth, or a person with a right to receive compensation for performance of a registrant’s obligations under this act.

“Faithful performance of the registrant’s obligations under this act”—The payment of a civil penalty, restitution, or costs of investigation pursuant to this act, or the act of July 2, 1993, P.L. 345, No. 48, as amended, performance of a contractual obligation, or satisfaction of a duty owed for conduct subject to the act.

§ 36.352. Amount of surety bond or letter of credit.

(a) A registrant who maintains a surety bond to satisfy the requirements of the act and §36.351 (relating to requirements for surety bond or letter of credit) shall maintain a bond in the amount of \$40,000.

(b) A registrant who maintains a letter of credit to satisfy the requirements of the act

and §36.351 (relating to requirements for surety bond or letter of credit) shall maintain a letter of credit in the amount of \$40,000.

(c) The Board may require additional amount or form of security for the following reasons:

(1) As a penalty for a violation of the act or this subchapter relating to the nonperformance of services or nonpayment of fees, or a violation of a similar law or regulation of another jurisdiction.

(2) A change in the financial strength or rating of the surety or issuer of the letter of credit.

(3) A failure to maintain the bond or letter of credit in the minimum amount required by the act or this subchapter, whichever is greater.

§ 36.353. Form of surety bond.

A surety bond held by a registrant to satisfy the requirements of the act and this subchapter shall include:

(1) The name and mailing address of the registrant.

(2) The name and title of the compliance person.

(3) The name, mailing address, telephone number, and NAIC code of the surety.

(4) The policy number for the surety bond.

(5) Indemnification for claims that arise or occur during the biennial licensure period during which the bond is issued for the benefit of:

- (i) This Commonwealth or the public for nonperformance of obligations under the act or this subchapter that occur during the period of the surety bond.
 - (ii) An appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid during the period of the surety bond.
- (6) An agreement by the surety to notify the Board if the surety bond is cancelled or terminated.

§ 36.354. Form of letter of credit.

(a) A letter of credit held by a registrant to satisfy the requirements of the act and this subchapter shall include:

(1) A provision that the letter of credit shall be irrevocable for a term of no less than 1 year and that the letter of credit automatically renew annually unless the letter of credit is specifically nonrenewed by the issuing bank 90 days or more prior to the anniversary date of its issuance, and the issuing bank gives at least 90 days prior written notice to the Department and the permittee of its intent to terminate the credit at the end of the current term.

(2) A provision that the Department has the right to draw upon the credit before the end of its term and to convert it into a cash collateral bond, if the registrant fails to replace the letter of credit with other acceptable bond within 30 days of the bank's notice to terminate the credit.

(3) The letter of credit shall name the Department as the beneficiary and shall be payable to the Department under § 36.356 (relating to claims against surety or obligor).

(4) A letter of credit shall be subject to the most recent edition of the Uniform Customs

and Practices for Documentary Credits, published by the International Chamber of Commerce, and the laws of the Commonwealth, including 13 Pa.C.S. §§ 1101--9507 (relating to Uniform Commercial Code).

(5) The Bureau will not accept letters of credit from a bank that has failed to make or delayed in making payment on a defaulted letter of credit.

§ 36.355. Maintenance of surety bond or letter of credit.

(a) If the rating of a surety or bank that has issued a bond or letter of credit falls below the minimum ratings required in subsections (b) and (c) of § 36.351, relating to requirements for surety bond or letter of credit, a registrant shall replace the bond or letter of credit within 45 days from the date of the substandard rating decline with a new bond or letter of credit that satisfies the requirements of §36.351.

(b) If a bond or letter of credit is not replaced within 45 days of the substandard rating decline, the Bureau will have discretion to draw on the surety bond or letter of credit and deposit the proceeds with the State Treasurer to secure the registrant's liability and to commence proceedings under the act, this subchapter and the Administrative Agency Law to suspend or revoke the registrant's authority to perform appraisal management services in this Commonwealth.

(c) If a surety or bank makes a payment upon a bond or a letter of credit issued to fulfill the requirements of the act or this subchapter, the registrant shall obtain additional security within 45 days of the date of payment in the form of an additional surety bond or letter of credit

in an amount sufficient to maintain the minimum amount required by the act or this subchapter, whichever is greater.

§ 36.356. Claims against surety or obligor.

(a) The Bureau may make a claim to a surety or obligor to:

(1) Recover unpaid fees for appraisal services.

(2) Obtain payment for civil penalties, costs of investigation, or fees payable to this Commonwealth.

(3) Obtain payment for debts arising out of the performance of appraisal management services in this Commonwealth.

(4) Obtain security as provided in §36.355(b), relating to maintenance of surety bond or letter of credit.

(b) The Bureau, in its discretion, will make a claim to a surety or obligor for a purpose set forth in subsection (a) of this section upon one of the following conditions:

(1) The expiration of the period of appeal from the entry of a final order issued by the Board in a proceeding under the Administrative Agency Law and a determination by the Bureau based upon a review of its records that all or part of a civil penalty or costs of investigation levied by that order remain unpaid.

(2) The failure of a registrant to satisfy a written agreement with the Board or the Bureau to pay an amount described in subsection (a).

(3) A determination by the Prosecution Division of the Bureau upon a complaint filed

with the Bureau that there is probable cause to believe that a registrant owes a sum certain for unpaid fees, civil penalties, costs of investigation, fees payable to this Commonwealth or debts arising out of the performance of appraisal management services in this Commonwealth.

(4) The requirements of §36.355, relating to maintenance of surety bond or letter of credit.