ACCURATE GROUP

May 28, 2014

VIA email: regs.comments@occ.treas.gov
Regs.comments@federalreserve.gov
comments@FDIC.gov
regcomments@ncua.gov
RegComments@fhfa.gov

and electronic filing at http://www.regulations.gov

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW., Suite 3E-218, Mail Stop 9W-11,
Washington, DC 20219

Ms. Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street, NW., Washington, DC 20552

.Re: OCC, Docket ID OCC-2014-0002, RIN 1557-AD64; FRB Docket No, R-1486, RIN AE15; FDIC: RIN 3064-AE10; NCUA: RIN 3133-AE22; CFPB Docket No, CFPB 2014-006, RIN 3170-AA44; FHFA RIN 2590-AA61

Dear Agencies:

Accurate Title Group, LLC ("Accurate") is a leading multistate appraisal management company ("AMC") with registrations or licenses in more than 30 states. Accurate recognizes the need for a rule to implement the minimum requirements in section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") to be applied by States in the registration and supervision of AMCs and to implement the requirement of the Act for states to report to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. We, thank the Agencies for this opportunity to provide comment regarding the Joint Federal Agency Proposed Rule on Minimum Requirements for Appraisal Management Companies.

A. Moral Character and Ownership Interests in an AMC (Question 6)

6000 Freedom Square • Suite 300 • Independence, OH • 44131
XX@accurategroup.com • 888.258.5757
www.accurategroup.com

Accurate supports the agencies' position that applicants for state registration or licensing and inclusion in the National Registry should be of good moral character and agrees that individuals who are not in good standing with each state in which the individual has held an appraiser license should be barred from ownership of an AMC as required by Section 1124(d) of FIRREA. We believe, however, that Proposed Rule § 1222.25(a) should allow each state to examine and sanction its licensees and prescribe rehabilitation and the bases upon which an appraiser, who has been sanctioned, can re-establish good standing. Section 1124(d) of the Act, on which Section 1222.25(a) is premised, can be and should be read to bar only persons who have had an appraiser license or certificate refused, etc., which license or certificate continues to be refused, etc. This is particularly true as to licensees who may have been sanctioned prior to the enactment of the Act.

There are innumerable reasons upon which a state might take action against an appraiser resulting in an appraiser license or certificate being refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Other commenters have alerted the agencies to the circumstances that various states interpret the words "refused", "denied", "cancelled" differently and apply sanctions differently. What is a minor technical infraction that might warrant a warning in one state might result in cancellation in another. An appraiser might choose or have chosen because of cost or for personal reasons not to defend a matter. Circumstances change and our legal and regulatory system generally acknowledge this. Undoubtedly, technical deficiencies and violations may not reflect on the moral character of an appraiser.

Moreover, the effort and steps necessary to regain good standing may be significantly more instructive about the character of an appraiser than the circumstances that resulted in an administrative action against the appraiser or the appraiser's license. Neither the Act nor the Proposed Rule bar an appraiser who may have been refused or denied a license or had a license cancelled or revoked from performing services as an appraiser in federally-related transactions if that appraiser is then in good standing. See FIRREA § 1124(a) (2) (states must "verify that only licensed or certified appraisers are used for federally related transactions"). An appraiser in good standing should similarly not be barred from having an ownership interest in an AMC.

B. Definition of Appraisal Management Company (Question 1)

The minimum requirements will apply to any AMC that provides "appraisal management services." Given the importance of a strong regulatory framework for AMCs to our financial system and consumer lending and acknowledging the costs that AMCs will bear in meeting the regulatory burden, the reach of the regulations should be clear and comprehensive so that unlicensed and unregulated firms do not undercut the goals of the Act. Proposed Rule § 34.211(d) defines "appraisal management services" to mean 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 duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying appraisers for services performed; or (4) reviewing and verifying the work of appraisers." This definition largely follows the definition of Appraisal Management Company found in Section 1121 of FIRREA. Items (1), (2) and (4) in Proposed Rule § 34.211(d) certainly are at the core of the activity to be regulated. Item (3), however, could be further expanded to make clearer that the full range of activities inherent in receiving and delivering appraisal orders are included. Through the legislative and rulemaking process in numerous states "appraisal management services" have been defined inconsistently so that on a state-by-state basis there are differences in what activities and persons are regulated. For example, Michigan's AMC Act, Act No. 505 of Public Acts of 2012, includes "[a]cting as a third-party broker or intermediary between persons requesting real estate appraisal services and independent appraisers who agree to provide those services." Pennsylvania similarly defines AMCs as including those who act "as a third-party intermediary between a person seeking a valuation of real estate located in this Commonwealth and an appraiser or firm of appraisers." The Appraisal Management Company Registration Act, (HB 398) 63 P.S. § 457.21-457.31. The Texas Act and others add that the activities include those that are engaged in "directly or indirectly".[1] We encourage the agencies to reconsider the scope of the definition of "appraisal management services" by expanding the description and enumeration of activities that comprise "managing the process" and "providing administrative duties" in order to provide greater clarity for the state regulators and industry participants about who is to be regulated as an AMC.

C. Definition of Appraisal Panel (Question 2 and Question 3)

When counting appraisers for purposes of the Act, employee appraisers and independent contractor appraisers should count the same in defining the panels for purposes of assessment of fees. As observed in the Proposed Rule, Section 1473 does not specify whether a "network or panel" consists of employees or an AMC or independent contractors retained by the AMC. This in turn affects whether "appraisal firms" should be excluded from the regulation. In fairness to AMCs, the reliance of the

[1] Texas Act § 1104.003. DEFINITIONS. (2) "Appraisal management service" means to directly or indirectly perform any of the following acts: (A) administer an appraisal panel; (B) recruit, retain, or select an appraiser; (C) contract with an appraiser to perform an appraisal assignment; (D) provide a completed appraisal performed by an appraiser to one or more clients; or (E) manage the process of having an appraisal performed, including: (i) receiving and assigning appraisal orders and reports; (ii) tracking and determining the status of orders for appraisals; (iii) conducting quality control of a completed appraisal before delivery of the appraisal to the person who ordered the appraisal; (iv) collecting fees from creditors and underwriters for services provided; or (v) reimbursing appraisers for services performed.

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Agencies on the model state AMC code skews the definition unfairly in favor of appraisal firms, which for all intent and purposes conduct their businesses as AMCs when performing the administrative and review functions that lie at the core of AMC regulation. Where there is no substantive difference like businesses should be regulated similarly. Whether the report is prepared by an employee or independent contractor does not change the work for which the business is responsible. Moreover, AMCs and appraisal firms continuously experiment with staffing models that variously include combinations of employee and independent contractor appraisers.

We appreciate this opportunity to offer this comment letter. We are, of course, available to answer any questions the Agencies may have regarding our comments.

Sincerely,

Paul M, Doman
President

cc: Mr. Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW.
Washington, DC 20429

Mr. Robert deV. Frierson
Secretary, Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW.
Washington, DC 20551

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Mr. Alfred M. Pollard. Esquire
General Counsel
Attention: Comments/RIN 2590-AA61
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street, SW.
Washington, DC 20024

6000 Freedom Square • Suite 300 • Independence, OH • 44131
XX@accurategroup.com • 888.258.5757
www.accurategroup.com