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# FFIEC Finalizes Regulations for the Payment of AMC Registry Fees

 Consumer Financial Services Review**Mayer Brown LLP**

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Appraisal management companies (“AMCs”) are one step closer to being required to pay annual registry fees. The Appraisal Subcommittee (“ASC”) of the Federal Financial Institutions Examination Counsel published a [final rule](#) on September 25, 2017, pursuant to its authority granted under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), to govern a state’s collection of annual registry fees from AMCs. The final rule will take effect on November 24, 2017.

The Dodd-Frank Act amended Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”) to require states that opt to register and supervise AMCs to collect an annual AMC registry fee. The federal law requires such states to collect (i) from AMCs that have been in existence for more than one year, an annual registry fee of \$25 multiplied by the number of appraisers working for or contracting with the AMC in the state during the previous year; and (ii) from AMCs that have not been in existence for more than a year, \$25 multiplied by an appropriate number determined by the ASC. The Dodd-Frank Act gives the ASC discretion to increase the \$25 fee to \$50 if necessary to satisfy the ASC’s functions under the Dodd-Frank Act.

The ASC proposed regulations in May 2016 to implement the registry fee requirement and received 104 public comment letters. Most notably, the proposed regulations offered the ASC’s interpretation of what it means to be “working for or contracting with” an AMC for purposes of the registry fee. The final rule effectively adopts the standards from the proposed rule and establishes the annual AMC registry fee for AMCs in states that opt to register

and supervise AMCs as follows:

1. For AMCs that have been in existence for more than one year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in said State during the previous year; and
2. For AMCs that have been in existence for less than one year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in said State since the AMC commenced doing business.

The final rule defines “performed an appraisal” to mean “the appraisal service requested of an appraiser by the AMC was provided to the AMC.”

The ASC notes that it rejected the option of requiring AMC registry fees to be based on the total number of appraisers on an AMC’s panel during the reporting period in a particular state. It also rejected the option of calculating the fees based on the number of appraisers engaged by the AMC to perform an appraisal during the reporting period in a particular state, regardless of whether the appraiser actually completed the appraisal report. The final rule’s “performed an appraisal” standard will allow AMCs to exclude appraisers on an AMC’s panel that have never received an order, as well as appraisers that performed appraisals in the past outside of the reporting period, from the total annual registry fees per state. Given the other two options that had been considered by the ASC, this appears to be the best result for AMCs.

The final rule also adopts standards for a state’s collection and transmission of annual AMC registry fees. If a state opts to register and supervise AMCs, the state will be required to collect and transmit the registry fee on an annual basis. States otherwise have the discretion under the final rule to align the annual period with any 12-month period, even if not based on a calendar year. The ASC acknowledged that states do not always renew AMC licenses or registrations on the calendar year. The final rule gives the states the flexibility to make their annual license or registration period (for those states with a one-year license/registration) match up with the registry fee deadlines. Moreover, only those AMCs whose registry fees have been transmitted to the ASC will be eligible for inclusion on the ACS’s AMC Registry. Before the November 24th effective date, the ASC will issue a bulletin to the states that will address specific requirements related to the AMC Registry.

Many public comments had requested that the ASC prohibit AMCs from passing the registry fees on to appraisers. The ASC notes in the final rule that it does not have authority to regulate the conduct of AMCs and no such prohibition appears in the final rule.

**Mayer Brown LLP** - Holly Spencer Bunting and Kathryn E. Civitello

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