

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES
PART 2 REGISTRATION REQUIREMENTS

16.65.2.1 ISSUING AGENCY: State of New Mexico Real Estate Appraisers Board.
[16.65.2.1 NMAC - N, 10/16/2009]

16.65.2.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board.
[16.65.2.2 NMAC - N, 10/16/2009]

16.65.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the AMC Registration Act (NMSA 1978, Sections 47-14-1 through -23).
[16.65.2.3 NMAC - N, 10/16/2009]

16.65.2.4 DURATION: Permanent.
[16.65.2.4 NMAC - N, 10/16/2009]

16.65.2.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section.
[16.65.2.5 NMAC - N, 10/16/2009]

16.65.2.6 OBJECTIVE: The objective of Part 2 is to set forth the requirements for registration, which apply to all persons affected or regulated by Chapter 65 of Title 16.
[16.65.2.6 NMAC - N, 10/16/2009]

16.65.2.7 DEFINITIONS: Federally regulated financial institutions: An appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency shall not be required to register with a state.
[16.65.2.7 NMAC - N, 01/15/2017]

16.65.2.8 AMC REGISTRATION REQUIREMENTS: Each AMC applying to the board for registration shall:

- A.** designate one controlling person (CP) that will submit to service of process;
- B.** designate one employee in charge (EIC) that will be the main contact for all communication between the board and the AMC (CP may be designated as the EIC, if that person meets all qualifications required by the board);
- C.** specify all entities doing business as (DBA) under the AMC;
- D.** certify that all appraisers added to the panel of the AMC hold a New Mexico license and certificate in good standing as an appraiser;
- E.** the AMC shall evaluate all appraisers within the renewal period to ensure that the real estate appraisal services are being conducted in accordance with the uniform standards of professional appraisal practices and board rules;
- F.** maintains a board file, containing:
 - (1) a detailed record of each appraisal assignment with the corresponding engagement letter and the independent appraiser that performs the real estate appraisal services for the AMC;
 - (2) certification and evaluation of all appraisers, as required under Subsections C and D;
 - (3) list of all non-taxable transaction certificates issued;
 - (4) a detailed record of the process and criteria that the AMC has in place to review the work of appraisers; and
 - (5) written procedure for contracting with and paying appraisers.
 - (6) a list of all appraisers who performed an appraisal in connection with a transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets in New Mexico during the previous year.
- G.** maintain a bond or other equivalent means of surety:
 - (1) a bond of twenty-five thousand dollars (\$25,000) shall be underwritten by a corporate surety authorized to transact business in New Mexico; such bond shall meet the following conditions:

- (a) payments from a bond required pursuant to this section shall only be used to cure violations caused by a registrant, confirmed by the board;
 - (b) claims against the bond shall be made within two years following the board's final decision and order, finding a violation;
 - (c) bonds shall be construed so that the corporate surety may pay claimants directly, upon approval by the board;
 - (d) the total aggregate liability of the surety for all claims shall be limited to the face amount of the board;
 - (e) the bond carrier shall provide to the board and to the AMC thirty [day's] days prior written notice of intent to cancel a bond required pursuant to this section; the surety for such a bond shall remain liable under the provisions of the bond for all obligations of the principal pertaining to bond terms that occur before the bond is canceled, expires or otherwise becomes ineffective;
 - (f) failure to maintain the bond for the period required by law is cause for revocation of the AMC registration; and
 - (g) if the bond is canceled, expires or otherwise becomes ineffective during the period of the registration, the AMC shall immediately notify the board; if the AMC has not provided proof of a new bond before the fortieth day after the date on which the bond was canceled, expired or otherwise became ineffective, the AMC shall be subject to revocation of its registration for failure to maintain a bond;
- (2) as an equivalent means of surety, an AMC may maintain an agreement of cash collateral assignment executed with a state or national bank or federally insured savings association authorized to do business in New Mexico as trustee; interest, if any, accumulating on the cash collateral assignment shall accrue to the AMC. [16.65.2.8 NMAC - N, 10/16/2009; A, 01/16/11; A, 01/01/2015; A, 02/03/2019]

16.65.2.9 OWNER REGISTRATION REQUIREMENTS:

- A. An AMC applying for registration may not be owned by a person or have any principal of the company, who has had a license or certificate to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state.
- B. Each person that owns, is an officer of, or has a financial interest in an AMC shall:
 - (1) execute an irrevocable consent to service of process form;
 - (2) be of good moral character; and
 - (3) submit to a state background investigation.

[16.65.2.9 NMAC - N, 10/16/2009]

16.65.2.10 CONTROLLING PERSON (CP) REGISTRATION REQUIREMENTS: In order to serve as a CP of an AMC, a designee shall:

- A. be of good moral character;
- B. submit to a state background investigation;
- C. not have had a license to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state; and
- D. submit an irrevocable server of process form.

[16.65.2.10 NMAC - N, 10/16/2009]

16.65.2.11 EMPLOYEE IN CHARGE (EIC) REGISTRATION REQUIREMENTS: In order to serve as the EIC for a registered AMC, a designee shall:

- A. not have had a license to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state;
- B. be of good moral character;
- C. submit to a state background investigation; and
- D. shall be responsible for:
 - (1) the selecting of appraisers for the performance of real estate appraisal services which includes: ensuring that each appraiser is licensed and provides a combined reporting system (CRS) identification number;
 - (2) have the responsibility of reviewing completed appraisals as part of the board file:
 - (a) shall ensure clerical review is conducted on all appraisals completed within the renewal period;

(b) shall randomly select a statistically significant number, but not less than five percent, all fractions rounded up, of outsource appraisal reviews on appraisals completed within the renewal period;

(c) outsource appraisal reviews shall be completed by an appraiser that is certified or licensed in good standing within their state of licensure at a level that corresponds with or is higher than the level of licensure required to perform the appraisal.

(3) maintaining required documentation as part of the board file.

E. For initial registration of any Employee In Charge (EIC), proof that a 15 hour USPAP course was completed (no limitation on date completed) must be submitted along with the application for registration. For subsequent renewals of an existing registered EIC, an appraisal qualification board (AQB) 7 hour National USPAP Update course must have been taken within the past two years. The appraisal qualifications board (AQB) approved 15 hour national USPAP course and the seven hour national USPAP update course do not require prior approval by the board with proof that the course was taught by an AQB certified USPAP instructor who is also a residential or general certified appraiser; the course sponsor may certify in the form of a certificate provided to the student that the instructor meets AQB criteria; the instructor must be affiliated with a sponsor approved in at least one state of the United States.

[16.65.2.11 NMAC - N, 10/16/2009; A, 01/16/2011; A, 7/10/2011; A, 01/15/2017; A, 02/03/2019]

16.65.2.12 LETTERS OF ENGAGEMENT: Prior to placing an assignment for real estate appraisal services, the AMC shall give the appraiser a written letter of engagement that shall include the following minimum requirements. The written letter may be in electronic format.

A. An AMC must clearly indicate on each engagement letter that it is a requirement for an appraiser to be both product and geographically competent to complete the assignment. The acceptance of an assignment will serve as the appraiser's attestation that they are competent to accept the assignment. An AMC must clearly disclose its registration number on each engagement letter sent to an appraiser.

B. An AMC must disclose the following fees within the engagement letter sent to an appraiser;

(1) the total fee that will be collected by the AMC for the assignment;

(2) the total amount that the AMC will retain from the fee charged, disclosed as a dollar amount; and

(3) direct the appraiser who performs the real estate appraisal activity to disclose in the body of the appraisal report:

(a) the total compensation, stated as a dollar amount, paid to the appraiser or, if the appraiser is employed by an appraisal company, to the appraiser's employer; and

(b) the total compensation retained by the AMC in connection with the real estate appraisal activity, stated as a dollar amount.

C. An AMC shall provide an NTTC to New Mexico licensed appraisers who perform appraisal services for an AMC who will subsequently resell the appraiser services to lenders. In order to execute NTTC's to appraisers, an AMC must register with the New Mexico taxation and revenue department and obtain a combined reporting system (CRS) identification number for tax reporting purposes.

[16.65.2.12 NMAC - N, 10/16/2009; 16.65.2.12 NMAC - N, 01/16/2011; A, 01/01/2015]

16.65.2.13 AUDITS: At the time of registration or renewal the board has the right to examine the books and records of an AMC operating in the state and require the AMC to submit reports, information, and documents to the state at any time after written notice has been sent to the EIC of the AMC. Any costs incurred by the board during an audit may be attributed to the AMC.

[16.65.2.12 NMAC - N, 10/16/2009; 16.65.2.13 NMAC - Rn & A, 16.65.2.12 NMAC, 01/16/2011; A, 01/15/2017]

16.65.2.14 KNOWLEDGE OF THE RULES: All AMC's and designees shall have knowledge of the board rules, and by acceptance of registration shall agree to abide by these rules.

[16.65.2.13 NMAC - N, 10/16/2009; 16.65.2.14 NMAC - Rn & A, 16.65.2.13 NMAC, 01/16/2011]

16.65.2.15 "AMC NATIONAL REGISTRY": The Board's staff shall, as required by federal law, report all residential appraisal management companies to the AMC National Registry. For the purposes of this rule, "residential appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in

the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a state or 25 or more nationally within a given year.
[16.65.2.15 NMAC – N, 02/03/2019]

16.65.2.16 NOTIFICATION OF DISCIPLINARY ACTION: A registrant shall notify the board in writing within 30 days after the registrant is notified of any denial, revocation, or suspension of its designation, registration, certificate, or license under any law of any jurisdiction, other than New Mexico, regulating appraisal management companies, the imposition of any other form of discipline under any such law, or the commencement of a disciplinary or enforcement action against the registrant under any such law. The board shall commence disciplinary proceeding and, at the conclusion of those proceedings, determine the extent of the final discipline to be imposed in New Mexico, which may be less or more severe than the discipline imposed by the other jurisdiction that imposed discipline.

[16.65.2.16 NMAC-N, xx/xx/2021]

HISTORY OF 16.65.2 NMAC: [RESERVED]