

## **DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

### **NOTICE OF FOURTH EMERGENCY RULEMAKING**

The Commissioner of the Department of Insurance, Securities and Banking (“Commissioner”), pursuant to the authority set forth in section 102 of the Appraisal Management Company Regulation Temporary Act of 2020, effective October 20, 2020 (D.C. Law 23-140; 67 DCR 9891) (“Act”), hereby gives notice of the adoption, on an emergency basis, of the following: Chapter 31 (Appraisal Management Companies), of Title 26 (Insurance, Securities, and Banking), Subtitle C (Banking and Financial Institutions), of the District of Columbia Municipal Regulations (DCMR).

The proposed regulations implement the Act which creates a regulatory framework to register an appraisal management company (AMC) doing business in the District of Columbia (District), standards for suspending and revoking registrations, and procedures for addressing consumer complaints.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, approved July 21, 2010 (124 Stat. 2192; 12 U.S.C § 3353) (the Dodd-Frank Act) required states to establish minimum standards for the regulation of appraisal management companies in order for AMCs to engage in federally-related transactions. States were given a deadline of August 10, 2018 to adopt the minimum requirements. The District requested and was granted a one-time only 12-month extension, creating a final deadline of August 10, 2019. In order to comply with the Dodd-Frank Act, the District enacted the Act to designate the Department of Insurance, Securities and Banking (Department) as a state appraiser certifying and licensing agency authorized to register and regulate AMCs.

Law and regulations were put in place by the August 10, 2019 deadline, and appraisal management companies have been able to operate and continue to facilitate federally-related transactions in the District. However, the permanent legislation governing appraisal management companies is still moving through the District’s legislative process which creates the need for emergency action. Ensuring that appraisal management companies continue to be able to function in the District mitigates the potential for higher appraisal costs for District consumers and eliminates the need for contingency plans by lenders to remove appraisal management companies from federally-related transactions, thereby preserving the District’s robust lending market and the current and prospective District residents that it serves. Because of these imperatives, this emergency rulemaking is necessary for the immediate preservation of the public’s safety and welfare.

A Notice of Emergency and Proposed Rulemaking was adopted on August 7, 2019 and became effective on that date (“Notice”). The Notice was published in the D.C. Register on October 11, 2019 at 66 DCR 13454. The comment period closed on November 12, 2019. A Notice of Emergency Rulemaking was adopted on December 5, 2019, a Notice of Second Emergency Rulemaking was adopted on April 3, 2020, and a Notice of Third Emergency Rulemaking was adopted on July 31, 2020 to ensure regulatory coverage since appraisal management companies were governed by temporary legislation during that period. The Department is promulgating this emergency rulemaking under a new temporary law in order to ensure regulatory coverage as the

permanent legislation governing appraisal management companies in the District moves through the final stages of the legislative process.

The emergency rulemaking was adopted on January 12, 2021 and became effective on that date. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the date of adoption, expiring May 12, 2021, unless earlier superseded by publication of a Notice of Final Rulemaking.

**A new Chapter 31, APPRAISAL MANAGEMENT COMPANIES, of Title 26-C DCMR, BANKING AND FINANCIAL INSTITUTIONS, is added to read as follows:**

**CHAPTER 31            APPRAISAL MANAGEMENT COMPANIES**

**3100            PURPOSE**

3100.1            The purpose of these rules shall be as follows:

- (a)            To provide for the registration and regulation of appraisal management companies doing business in the District of Columbia pursuant to section 102(a) of the Appraisal Management Company Regulation Emergency Act of 2020 (“the Act”) and section 1124 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; and
- (b)            To establish guidelines in order to ensure that all appraisal management companies subject to the Commissioner’s authority provide services consistent with the standards and requirements applicable under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, approved July 21, 2010.

**3101            SCOPE**

3101.1            This chapter shall apply to any person or entity that acts as an appraisal management company (AMC) as defined in section 101(4) of the Act regardless of the title used to describe the person or entity.

**3102            REGISTRATION REQUIREMENT; APPLICATION CONTENT AND AMC QUALIFICATIONS**

3102.1            No person or entity shall directly or indirectly engage or attempt to engage in business as an appraisal management company in the District of Columbia (“District”), or perform or attempt to perform appraisal management services in the District without first obtaining a registration from the Commissioner.

3102.2            To register, an AMC shall file with the Department of Insurance, Securities and Banking (“Department”) a registration application on a form prescribed by the

Commissioner that includes all information required under the Act, and the following:

- (a) The application fee set forth in section 3109 of this rulemaking;
- (b) All trade names and fictitious names used by the AMC;
- (c) Identification of whether the AMC is a single state or multistate AMC;
- (d) A designated controlling person that will be the principal point of contact for all communication between the AMC and the Department;
- (e) A Certificate of Clean Hands from the District of Columbia Office of Tax and Revenue pursuant to D.C. Official Code §§ 47-2861-2866;
- (f) A Certificate of Good Standing or a Certificate of Registration from the District of Columbia Department of Consumer and Regulatory Affairs pursuant to D.C. Official Code § 29-102.08;
- (g) A signed biographical affidavit from each person that owns ten (10) percent or more of the AMC;
- (h) Consent to service of process and identification of a registered agent for service of process in the District;
- (i) A certification that the AMC has systems in place to comply with the requirements of the Act;
- (j) A completed taxpayer status affidavit; and
- (k) The names and addresses of the independent fee appraisers on the AMC's appraisal panel that performed an appraisal for the AMC in connection with a covered transaction in the District during the previous year due no later than September 1<sup>st</sup> of a given year.

3102.3 An AMC that fails to file by the deadline in section 3102.2(k) shall be subject to the covered transaction report late fee in section 3109. The Department also may refuse to renew the registration.

3102.4 An applicant shall notify the Department of any confidential information submitted pursuant to this section. Confidential information shall be exempt from disclosure pursuant to the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*).

### **3103 ISSUANCE AND TRANSFERABILITY OF A REGISTRATION**

3103.1 The registration of an AMC shall remain in force until it has expired or has been surrendered, revoked, or suspended in accordance with the provisions of the Act and this chapter. The surrender, revocation, or suspension of a registration shall not affect any existing legal right or obligation of the registrant, including any civil or criminal liability for acts committed before the registration was surrendered, revoked, or suspended.

3103.2 A registration approved pursuant to this chapter shall not be transferable or assignable.

#### **3104 EXPIRATION AND RENEWAL OF REGISTRATION**

3104.1 The registration of an AMC shall expire on December 31<sup>st</sup> of each year, except for AMCs that obtain a registration during the Department's initial AMC registration period, which shall expire December 31, 2020.

3104.2 To renew a registration, a registrant shall:

- (a) File a registration renewal application on a form prescribed by the Commissioner beginning on November 1<sup>st</sup> but no later than December 31<sup>st</sup>; and
- (b) Pay the required renewal fee and provide the Commissioner with any other required information.

3104.3 An AMC that fails to renew its registration before December 31<sup>st</sup> shall have sixty (60) days from the date of expiration to reinstate its registration, upon payment of the renewal fee and any reinstatement fee. A registration that is not reinstated before such date shall be cancelled. An AMC whose registration has been cancelled shall apply for a new registration to act as an AMC and conduct business in the District.

#### **3105 SUSPENSION AND REVOCATION OF REGISTRATION**

3105.1 The Commissioner may suspend or revoke a registration issued under this chapter, or take any other action provided for in this chapter, if the Commissioner finds, after a hearing, that the AMC has:

- (a) Violated any provision of the Act, this chapter or any order lawfully issued by the Commissioner;
- (b) Made a material misstatement in an initial or renewal application;
- (c) Engaged in fraudulent or dishonest practices;
- (d) Demonstrates incompetency or untrustworthiness; or

- (e) The registered AMC refuses to permit the Commissioner to make an examination or investigation authorized under the Act or this chapter.

3105.2 Hearings under this chapter shall be conducted pursuant to 26-C DCMR § 404.

**3106 RECORD KEEPING**

3106.1 All registered AMCs shall make available their books and records to the Commissioner for examination no later than fifteen (15) business days after a written request has been made. The Commissioner may grant a registered AMC additional time if necessary.

3106.2 An AMC shall ensure that a detailed record is maintained of each service request that the AMC receives for appraisals of real property located in the District.

3106.3 An AMC shall retain all records required under the Act and these regulations for the period expiring later between:

- (a) No less than five (5) years after submission of the file to the AMC; or
- (b) No less than two (2) years after final disposition of any related judicial proceeding of which the AMC is provided notice.

**3107 COMPLAINTS**

3107.1 Any complaint against an AMC shall be filed with the Department on a form prescribed by the Commissioner.

3107.2 The Commissioner may provide information on consumer complaints to other state and federal regulatory agencies, provided that the other state and federal regulatory agencies have agreed to maintain and protect all confidential consumer information.

**3108 SPECIFIC PROVISIONS FOR FEDERALLY REGULATED APPRAISAL MANAGEMENT COMPANIES**

3108.1 A federally regulated AMC, as defined in section 101(17) of the Act, operating in the District shall provide the Department with information required to be submitted to the Appraisal Subcommittee, pursuant to the Subcommittee's policies regarding the determination of the AMC National Registry Fee.

3108.2 Reporting requirements pursuant to § 3108.1 shall include:

- (a) A report to the Commissioner of the federally regulated AMC's intent to operate in the District; and
- (b) Information regarding whether the federally regulated AMC is owned, in whole or in part, directly or indirectly, by a person who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked in the District or any state for a substantive cause as determined by the Appraisal Subcommittee, and whether the license or certificate has been reinstated.

**3109 REGISTRATION FEES**

3109.1 The following AMC registration fees shall be applicable to an applicant or a registered AMC.

AMC Registration Category	Fees
DISB Initial Application Fee	\$1,000 + NMLS Fee
DISB Renewal Application Fee	\$1,000 + NMLS Fee
DISB Reinstatement Fee	\$400 + Renewal Application Fee
DISB Covered Transaction Report Late Fee	\$500
AMC Federal Registry Fee	<i>For AMCs in existence for more than 1 year</i>
	\$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in the District during the previous year.
AMC Federal Registry Fee	<i>For AMCs in existence for less than 1 year</i>
	\$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in the District since the AMC commenced doing business.
DISB Examination Fee	\$400 per examiner per day

3109.2 The Department shall collect the AMC Federal Registry Fee and transmit it to the Federal Registry in accordance with 12 C.F.R. § 1102.403.

**3199**            **DEFINITIONS**

3199.1            For the purpose of this chapter, the following terms have the meaning ascribed:

**AMC** – an appraisal management company as defined by section 101(4) of the Act.

**Applicant** - a person or entity filing an initial application for registration under this chapter.

**Application** - an initial or renewal application for registration as an appraisal management company in the District.

**Commissioner** - the Commissioner of the Department of Insurance, Securities and Banking.

**Previous year** – the interval period between July 1<sup>st</sup> and June 30<sup>th</sup>.