

**Appraisal Subcommittee**  
*Federal Financial Institutions Examination Council*

November 10, 2010

Mr. William Barney, Chair  
Massachusetts Board of Registration of Real Estate Appraisers  
1000 Washington Street, Suite 710  
Boston, MA 02118-6100

RE: ASC Compliance Review of Massachusetts' appraiser regulatory program

Dear Mr. Barney:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of Massachusetts' appraiser regulatory program (Program) on June 8-10, 2010. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the preliminary findings regarding the Review and the State's response. The ASC has determined the Program is not in substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI). The ASC identified the following area of non-compliance:

- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.<sup>1</sup>

In its response, the State indicated corrective actions were taken as detailed in the attached Report. During the next Review, ASC staff will confirm these corrective actions have taken place and are appropriate. Please also be advised this letter and the attached Report are public record and available on the ASC website in accordance with the Freedom of Information Act.

Please contact us if you have any questions.

Sincerely,



Deborah S. Merkle  
Chairman

**Attachment**

cc: Ms. Ann-Margarette Barry, Associate Director  
Mr. Joseph Autilio, Executive Director

---

<sup>1</sup> Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

## ASC Compliance Review Report

Finding: Not In Substantial Compliance  
Report Issue Date: November 10, 2010

**Massachusetts Appraiser Regulatory Program (Program)**

Massachusetts Board of Registration of Real Estate Appraisers/ Decision Making (Board)	PM: V. Ledbetter	ASC Compliance Review (Review) Date: June 8-10, 2010	Review Period: May 2008 - June 2010
Umbrella Agency: Division of Professional Licensing (Division)		Number of State credentialed appraisers on National Registry: 2,369	Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Massachusetts Statutes, Regulations, Policies and Procedures:</b> States must adopt and/or implement all relevant AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)	X			A review of the State's regulations revealed the following inconsistency with Appraiser Qualifications Board Real Property Appraiser Qualification Criteria (AQB Criteria). AQB Criteria limits to 50% the amount of continuing education (CE) that may be granted for participation, other than as a student, in appraisal educational processes and programs.  Massachusetts' regulation <b>§264.CMR 4.01(5)(g)</b> does not limit the amount of CE that may be granted for participation, other than as a student, in appraisal educational processes and programs to 50%, as required in the AQB Criteria.  Despite the conflicting regulation, ASC staff found no incidents where this regulation was applied.	On August 19, 2010, the Board reported to ASC staff that although <b>§264.CMR 4.01(5)(g)</b> does not specifically reference the limit in accordance with AQB Criteria, <b>§ 264 CMR 9.06(1)</b> of the State's regulations provides, "the Board adopts the AQB recommendations for the content and requirements for continuing education."	None	None	On the renewal form for appraiser credentials, the State is encouraged to provide information regarding the limitation on the amount of CE that may be claimed by an appraiser for non-traditional activities.

**ASC Compliance Review Report**

Finding: **Not In Substantial Compliance**

Report Issue Date: **November 10, 2010**

**Massachusetts Appraiser Regulatory Program (Program)**

Massachusetts Board of Registration of Real Estate Appraisers/ Decision Making (Board) PM: V. Ledbetter

ASC Compliance Review (Review) Date: June 8-10, 2010

Review Period: May 2008 - June 2010

Umbrella Agency: Division of Professional Licensing (Division)

Number of State credentialed appraisers on National Registry: 2,369

Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Massachusetts Statutes, Regulations, Policies and Procedures continued:			X					
States must have sufficient legal and administrative resources to perform Title XI-related duties. (Title XI § 1118 (b), 12 U.S.C 3347.)				<p>It appears the Program does not have sufficient resources to perform its Title XI-related duties. The Associate Executive Director and Board members provide service to the Program. One administrative assistant is designated to provide full time service to the Program. However, that individual is not solely dedicated to the Program, because she also provides back up administrative support for the real estate sales and broker program.</p> <p>Two of the Board positions are vacant and two of the members are functioning under expired terms. The State has failed to fill these positions for more than two years. Currently, all five Board members must attend a meeting to achieve a quorum. Consequently, the Board has had to postpone or cancel meetings due to scheduling conflicts among the members. While active members are upholding their duties in service to the Program, members stated that they are overburdened. According to Division staff, the Board has notified the Governor's Appointment Office repeatedly, yet no action has been taken to fill the positions.</p>	<p>On August 19, 2010, the Board reported to ASC staff, that the Board's administrative staff continues to complete all of its Title XI responsibilities with fewer resources.</p> <p>The Board and Division staff also reported that they again notified the Governor's Appointment Office of the Board vacancies. That office has not made the required appointments.</p>	None	To strengthen the Program, the Board should explore ways to achieve and maintain the necessary resources to perform its Title XI-related duties.	During the next Review, ASC staff will pay particular attention to this area for compliance with Title XI.

**ASC Compliance Review Report**

**Finding: Not In Substantial Compliance**  
**Report Issue Date: November 10, 2010**

**Massachusetts Appraiser Regulatory Program (Program)**

Massachusetts Board of Registration of Real Estate Appraisers/ Decision Making (Board)	PM: V. Ledbetter	ASC Compliance Review (Review) Date: June 8-10, 2010	Review Period: May 2008 - June 2010
Umbrella Agency: Division of Professional Licensing (Division)		Number of State credentialed appraisers on National Registry: 2,369	Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Temporary Practice:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>National Registry:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>Application Process:</b>	X							
States must use a reliable means of validating continuing education claims on appraiser renewal applications. (Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10F.)				<p>During the Review Period, 22% of appraisers renewing their credentials failed the CE audit. In addition, 183 appraisers failed to complete the 7-hour National USPAP Update Course timely.</p> <p>Massachusetts has a three-year CE cycle. During the Review Period, the Board began strictly enforcing required completion of the 7-hour National USPAP Update Course within 24 months of the last completion date of the course. The Board recognized that this is a more stringent requirement than AQB Criteria. Those who failed the CE audit were issued a public reprimand, a \$500 fine, and were required to complete the required CE.</p> <p>The public reprimands were noted on each appraiser's records on the State's website and provided to the ASC for inclusion on the private side of the National Registry. The public reprimands were not, however, publicized in a manner so as to make them readily available to other appraisers and the general public, thereby serving as a deterrent.</p>	<p>On August 19, 2010, the Board reported, that at its June 10, 2010 meeting, the Board voted to, in the future, sanction appraisers that falsely report the completion of CE courses on their appraiser credential renewal application with a one year suspension, a \$5,000 fine, and required completion of both the 15-hour USPAP course with an examination and the 7-hour National USPAP update course. Those found to have not taken the National USPAP update course within the required time frame will receive a reprimand, a \$500 fine, and be required to complete a 7-hour National USPAP Update course. The names of the individuals determined to have either of the aforementioned violations will be prominently posted on the State's website.</p> <p>The Board also reported that a proposed statutory amendment (HB 277) would reduce the appraiser credential renewal cycle from three years to two years. The Board reported that passage of the amendment will reduce the incidences of noncompliance.</p>	None	None	<p>The Board's actions address the concern.</p> <p>Upon adoption, please provide ASC staff with copies of the statutory amendment.</p>
<b>Reciprocity:</b>	X							
				No compliance issues noted.	N/A	None	None	None

**ASC Compliance Review Report**

**Finding: Not In Substantial Compliance**  
**Report Issue Date: November 10, 2010**

**Massachusetts Appraiser Regulatory Program (Program)**

Massachusetts Board of Registration of Real Estate Appraisers/ Decision Making (Board)

PM: V. Ledbetter

ASC Compliance Review (Review) Date: June 8-10, 2010

Review Period: May 2008 - June 2010

Umbrella Agency: Division of Professional Licensing (Division)

Number of State credentialed appraisers on National Registry: 2,369

Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Education:</b>	X							
				No compliance issues noted.	N/A	None	None	None
<b>Enforcement:</b>		X						
States should resolve all complaints filed against appraisers within one year, except for special documented circumstances. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				<p>There were 79 outstanding complaints of which 41 were unresolved for more than one year. None of the 41 cases fall under the exception for special documented circumstances. Of those 41 unresolved complaints, one is from 2006, two are from 2007, nineteen are from 2008, and nineteen are from 2009.</p> <p>Review findings from May of 2008 identified 38 complaints outstanding with 12 unresolved for more than one year. Therefore, it appears the State's failure to timely process complaint cases has increased.</p> <p>The majority of the dated complaint cases are pending action within the prosecutor's office. An agency-wide initiative set a State goal of resolving all complaints received on or before Fiscal Year 2008 by December 31, 2010. Going forward, the goal is to address complaints within two years of receipt.</p> <p>The use of a contract reviewer appears to have positively influenced the quality of the investigations. However, the number of complaints received during the Review Period increased 40%. Program resources devoted to complaint resolution have not expanded to meet the demand.</p>	On August 19, 2010, the Board reported to ASC staff that five of the 41 dated cases were resolved after the most recent on-site Review. The Board emphasized the benefit from the contract expert and the Division-wide initiative to resolve all cases received on or before Fiscal Year 2008, by December 31, 2010.	<p>The Board must submit quarterly complaint logs to ASC staff. Staff will analyze each log. If progress is not made, the ASC may place additional requirements upon the State.</p> <p>The ASC Policy Manager assigned to Massachusetts will work with the Division staff to determine the timing and content of the complaint log.</p>	To strengthen the Program, the Board should employ ways to process complaints of appraiser misconduct or wrongdoing in a timely manner to ensure compliance with Policy Statement 10E.	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.