

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

January 23, 2012

Ms. Ann-Margarette Barry, Associate Executive Director  
Office of Consumer Affairs, Division of Professional Licensing  
1000 Washington Street Suite 710  
Boston, MA 02118-6100

RE: ASC Compliance Review of Massachusetts appraiser regulatory program

Dear Ms. Barry:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Massachusetts appraiser regulatory program (Program) on June 5-7, 2012. 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. The ASC identified the following areas of non-compliance:

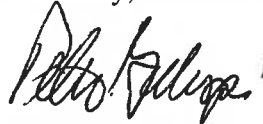
- States must require that appraisals be performed in accordance with the latest version of the Uniform Standards of Professional Appraisal Practice (USPAP);<sup>1</sup> and
- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.<sup>2</sup>

ASC staff will confirm corrective actions have taken place and are appropriate through off-site monitoring and during the next Review. Massachusetts will remain on a two-year Review Cycle.

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,



Peter Gillispie  
Chairman

Attachment

cc: Mr. Joseph Autillio, Executive Director

<sup>1</sup> Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 3; AQB Real Property Appraiser Qualification Criteria.

<sup>2</sup> Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

## ASC Compliance Review Report

**ASC Finding: Not In Substantial Compliance**  
Final Report Issue Date: January 23, 2012

**Massachusetts Appraiser Regulatory Program (Program)**

<b>Massachusetts Board of Registration of Real Estate Appraisers (Board) / Decision Making</b>	PM: V. Metcalf	ASC Compliance Review Date: June 5-7, 2012	Review Period: June 2010 to 2012
<b>Umbrella Agency: Office of Consumer Affairs and Business Regulation, Division of Professional Licensure (Division)</b>		Number of State Credentialed Appraisers on National Registry: 2163	Review Cycle: Two Year

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>			<b>X</b>					
Massachusetts must have sufficient funding and staffing consistent with the purpose of Title XI. (Title XI § 1118 (a), 12 U.S.C 3347.)				The Board has had 2 member positions vacant for more than 4 years. In addition, the terms of 2 current members expired in August 2002 and October 2005. However, the 2 members have committed to serving until they are reappointed or replaced. The Division staff provided the Governor's Appointment Office the names of prospective members and made repeated requests that appointments be made. This was a concern noted in the 2010 Compliance Review Report.	On October 25, 2012, the Board reported to ASC staff, that they dispute the non-compliance designation. The Board stated that its statute explicitly states that only 5 members are required to comprise the quorum necessary to conduct business. To date, 5 board members diligently serve their duties and continue to meet the requirements of the statute. In addition, the Board has delegated some authority to staff to ensure matters are handled on a timely basis between meetings.	None	None	The Board's ability to achieve a quorum is vulnerable as a quorum will be lost if even 1 of the existing members were to be absent or resign. The ASC Staff will continue to monitor this during the next Compliance Review.
<b>Massachusetts Statutes, Regulations, Policies and Procedures Continued:</b>		<b>X</b>						
States must require that appraisals be performed in accordance with the latest version of the Uniform Standards of Professional Appraisal Practice (USPAP). (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 3; AQB Real Property Appraiser Qualification Criteria.)				Massachusetts' regulations § 264 CMR 1.02 and § 264 CMR 2.03 have not been amended to recognize the 2012-2013 version of the Uniform Standards of Professional Appraisal Practice (USPAP).	On October 25, 2012, the Board reported to ASC staff, that on or about October 9, 2012, the Board received approval to proceed with a public hearing to adopt the 2012-2013 USPAP. The hearing will be held on November 29, 2012.	The Board must continue the process to amend its rules to bring them into compliance and provide ASC staff with a copy of the final rules once adopted.	None	None

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	YES	NO	AC					
<b>Massachusetts Statutes, Regulations, Policies and Procedures Continued:</b>	X							
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.)				<p>A review of the State's regulations revealed the following inconsistencies with Appraiser Qualifications Board's (AQB) Real Property Appraiser Qualification Criteria (AQB Criteria) regarding: (1) continuing education (CE); and (2) appraiser experience.</p> <p>AQB Criteria limits to 50% the amount of CE that may be granted for participation, other than as a student, in appraisal educational processes and programs. Massachusetts' regulation § 264 CMR 4.01(5)(g) does not limit the amount of CE that may be granted for participation, other than as a student. This was noted in the 2010 Compliance Review Report.</p> <p>AQB Criteria specifies that all appraiser experience must be obtained after January 30, 1989, and be USPAP compliant. Massachusetts regulation § 264 CMR 5.06 (4) states, "There is no maximum time limit as to when experience must be obtained."</p> <p>Despite the conflicting regulations, ASC staff found no incidents where these regulations were applied in practice.</p>	<p>On October 25, 2012, the Board reported to ASC staff, that the Board has all-encompassing regulations that ensure that the Board adopts and/or implements all relevant AQB Criteria. Specifically, § 264 CMR 9.06 entitled <i>Continuing Education</i> states that, "the Board adopts the AQB recommendations for the contents and requirements for continuing education." After the 2010 Compliance Review, the 50% limitation on the amount of CE that may be granted for participation, other than as a student, was added to the renewal form.</p> <p>In addition the Board reported that Massachusetts regulation at § 264 CMR 5.01(4) would allow the Board to reject experience earned prior to January 31, 1989. This is because it states that, "it shall be the responsibility of each applicant to ensure compliance with any and all AQB criteria in force and effect." To further comply, on July 19, 2012, the Board voted to amend § 264 CMR 5.06(4) to state that all experience must have been obtained after January 31, 1989.</p>	None	To strengthen the Program, Massachusetts should continue the process of amending its regulations to reflect what is required in practice and in AQB Criteria.	Upon adoption, please provide ASC staff with a copy of the adopted regulation change.

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<b>Temporary Practice:</b>	X			No compliance issues noted.	None	None	None	None
<b>National Registry:</b>	X			Disciplinary actions were incorrectly reported to the National Registry. ASC staff found disciplinary actions and the dates of those actions as reported to the National Registry during the Review Period were not accurate. Upon further investigation and in consultation with Massachusetts Information Systems staff, ASC staff determined that the erroneous reporting began after May 2011 when Massachusetts ceased providing disciplinary actions to the ASC manually and began including it electronically with the biweekly data submission. While actions continued to be reported, the codes used were incorrect and a computer error incorrectly populated the action date fields. As a result, all actions taken by the Board since May 2011 are not properly reflected on the National Registry.	On October 25, 2012 the Board reported to ASC staff, that the Board acknowledged a miscommunication in the electronic reporting of disciplinary actions to the National Registry's database after May 2011. The Division subsequently updated all disciplinary actions on the National Registry. On October 30, 2012, Division staff began the process of obtaining permission to use the ASC Extranet to report disciplinary information directly onto the National Registry.	None	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 9A.
States must submit all disciplinary actions to the ASC for inclusion on the National Registry. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 9A.)								

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	YES	NO	AC					
<b>Application Process:</b>	X			No compliance issues noted.	N/A	None	None	None
<b>Reciprocity:</b>	X			No compliance issues noted.	N/A	None	None	None
<b>Education:</b>	X			No compliance issues noted.	N/A	None	None	None
<b>Enforcement:</b>		X		No compliance issues noted.	N/A	None	None	None
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>Massachusetts had 133 outstanding complaints of which 49 were unresolved for more than 1 year. Of the complaints outstanding for more than 1 year, none fall under the exception for special documented circumstances.</p> <p>The lack of timely complaint resolutions was cited as out of compliance in the 2008 and 2010 Compliance Review Reports.</p>	<p>On October 25, 2012, the Board reported to ASC staff, that since the 2010 ASC Compliance Review the Board:</p> <ul style="list-style-type: none"> <li>• meets monthly to review cases either as a Complaint Subcommittee or at a full Board meeting.</li> <li>• worked with the Office of Prosecution to designate 2 prosecutors to prosecute all appraiser cases, so cases are now handled by prosecutors well-versed in appraisal practice and the Board's rules and practices.</li> </ul> <p>In addition, the Board reported they resolved 33 of the 49 dated cases identified in the 2012 Review as of October 25th.</p>	Massachusetts must continue to submit quarterly complaint logs to ASC staff.	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.