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Appraisal Subcommittee

Federal Financial Institutions Examination Council

May 21, 2013

Mr. Peter Comart, Licensing Administrator
Ms. Judith Griffin, Licensing Board Specialist
Vermont Board of Real Estate Appraisers
Secretary of State
Office of Professional Regulation
National Life Building, North FL 2
Montpelier, VT 05620-3402

RE: ASC Compliance Review of Vermont's appraiser regulatory program

Dear Mr. Comart and Ms. Griffin:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Vermont appraiser regulatory program (Program) on November 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 area(s) of non-compliance:

- States must ensure that appraiser experience logs conform to AQB Real Property Appraiser Qualification Criteria;¹ and
- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.²

ASC staff will confirm corrective actions have taken place and are appropriate during the next Review. Vermont 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,



Darrin Benhart
Acting Chairman

Attachment

cc: Ms. Ami Milne-Allen, Board Chair
Mr. Colin Benjamin, Staff Attorney

¹ Title XI § 1116, 12 U.S.C. 3345; AQB Real Property Appraiser Qualification Criteria.

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

“ASC Finding” Defined for ASC Compliance Review Report

1. IN SUBSTANTIAL COMPLIANCE

Applies when no issues of non-compliance or violations of Title XI, ASC Policy Statements or AQB Criteria are identified.

2. NOT IN SUBSTANTIAL COMPLIANCE

Applies when there are one or more issues of non-compliance or violations of Title XI, ASC Policy Statements and/or AQB Criteria but the concerns do not rise to the level of “not in compliance.”

3. NOT IN COMPLIANCE

Applies when the number, seriousness, and/or repetitiveness of the Title XI, ASC Policy Statements and/or AQB Criteria violations warrant this finding.

ASC Compliance Review Report

ASC Finding: Not In Substantial Compliance

Final Report Issue Date: May 8, 2013

Vermont Appraiser Regulatory Program (Program)

Vermont Board of Real Estate Appraisers (Board)/Decision Making

PM: K. Klamet

ASC Compliance Review Date: November 5-7, 2012

Review Period: November 2010 to November 2012

Umbrella Agency: Secretary of State, Office of Professional Regulation

Number of State Credentialed Appraisers on National Registry: 311

Review Cycle: Two Year

Requirement/Guidance	Compliance (YES/NO) Areas of Concern			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Vermont Statutes, Regulations, Policies and Procedures:								
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, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 3; AQB Real Property Appraiser Qualification Criteria.)			X	<p>A review of Vermont's Statutes and Regulations revealed the following inconsistency with ASC Policy Statement 3 and the Appraiser Qualifications Board's (AQB) Real Property Appraiser Criteria (AQB Criteria) regarding the requirement that appraisals must be performed in accordance with the latest version of Uniform Standards of Professional Appraisal Practice (USPAP).</p> <p>Vermont Statute 3315 (b) (5) requires the Board to adopt rules for the standards of practice. However, current regulations do not adopt USPAP as the standards of practice. Regulation 3.6 requires the Board to follow USPAP for guidance in disciplinary matters but does not incorporate it for the practice of real estate appraisal.</p>	<p>On February 11, 2013, the Board reported to ASC staff that the proposed revision to the governing statute for the real estate appraiser profession in Vermont and the proposed administrative rules will incorporate by reference that all licensees shall follow and adhere to the USPAP published by the Appraisal Foundation, as amended, for all appraisals of real property.</p>	None	<p>To strengthen the Program, Vermont should continue the process of amending its statute and regulations and provide ASC staff with copies of these statute and regulation changes.</p>	None

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Vermont Statutes, Regulations, Policies and Procedures, continued:			X					
States must adopt and/or implement all relevant AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 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 Program's Regulations revealed the following inconsistencies with the AQB Criteria regarding (1) Experience claimed; (2) Qualifying Education (QE) for challenged examinations; (3) QE (other than as a student); (4) Continuing Education (CE); and (5) CE for reinstatement.</p> <p>Experience claimed by an appraiser applicant must include in the experience log the scope of the review, supervision of the supervising appraiser and the signature and State certification number of the supervising appraiser if applicable. Vermont regulation 2.10(b) does not include these requirements.</p> <p>Effective January 1, 2008, the AQB Criteria no longer recognizes challenge examinations for meeting appraiser QE. Vermont regulation 2.9(g) allows credit for courses completed by challenge examination.</p> <p>Participation, other than as a student, in appraisal processes and programs may not be credited as QE. Vermont regulation 2.9(e) allows qualifying education credit for teaching of appraisal courses.</p> <p>Up to one half of an appraiser's CE requirement may be granted for participation, other than as a student, in such activities as teaching or authoring a textbook. Vermont regulation 3.2(b) does not limit continuing education credit for non-student activities.</p> <p>Prior to reactivation, a credential holder in an inactive status must complete the CE that would have been required if the credential holder had been in active status. Vermont regulation 3.4 does not specifically require that an applicant for reinstatement complete the required CE. Current regulation allows the Board to require that the applicant complete specific courses or retake the examination.</p> <p>Vermont regulation 2.13 (a), regarding education guidelines, references 2.7 which is incorrect.</p>	<p>On February 11, 2013, the Board reported to ASC staff that the inconsistent regulations identified by ASC staff have been stricken from the Administrative rules and replaced with language that makes it clear that education, experience, and continuing education requirements, as well as examination specifications for each category of licensure are set by the AQB.</p>	None	<p>To strengthen the Program, Vermont 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 copies of these regulation changes.</p>	None

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	YES	NO	AC					
Temporary Practice:	X							
				No compliance issues noted.	N/A	None	None	None
National Registry:	X							
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.)				ASC staff identified 1 disciplinary action taken during the Review period that had not been reported to the ASC for inclusion on the National Registry. The sanction involved a credential holder that failed to fulfill the terms of a disciplinary agreement and was indefinitely suspended by the State.	On February 11, 2013, the Board reported that disciplinary actions are now reported to the National Registry via the ASC Extranet. As a result, each disciplinary decision issued by the Board is now manually reporting to the National Registry on the day the decision is issued.	None	None	The Board's resolution addresses the concern.
Application Process:	X							
States must ensure that qualifying education documentation submitted with an application for appraiser credential upgrade is consistent with AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				ASC staff identified 1 application that did not contain sufficient documentation to support that the applicant's college education met the minimum AQB education criteria. Specifically, ASC staff was unable to confirm that the Associate Degree submitted by the applicant was a valid degree received from a recognized institution of higher learning.	On February 11, 2013, the Board confirmed the licensee's claimed education did not satisfy minimum AQB Criteria. The licensee was notified that the Board was preliminarily rescinding the credential. The licensee has until February 15, 2013 to appeal before the Board's decision will become final. In addition, this matter has been referred to the State prosecutor and is pending investigation as to whether the applicant falsely or deceptively procured the license in violation of Vermont law.	None	None	The Board's resolution addresses the concern.

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	YES	NO	AC					
Application Process Continued:			X					
States must require all continuing education for renewal of an appraiser credential be consistent with AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				<p>ASC staff identified 1 credential holder who had been renewed by the State without meeting AQB required CE for renewal. The credential holder marked on the renewal application that only 7 of the required 28 hours of CE had been completed.</p> <p>This same credential holder was selected for the Program's CE audit and has not responded to inquiries by the State. File documentation indicated that the Investigative team recommended on January 12, 2012, that the credential holder be indefinitely suspended for failure to comply with the CE audit. At the time of this review, no action had been taken and the credential holder was "Active" on the National Registry.</p>	On February 11, 2013 the Board reported that a "Specification of Charges" was filed and served on the credential holder on January 29, 2013.	None	To strengthen the Program, Vermont should implement an effective policy and procedure to ensure that: 1) continuing education for renewal of an appraiser credential meets the minimum AQB requirements; and 2) when it is determined that an appraiser's continuing education does not meet the minimum AQB Criteria, that appropriate action is taken to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed.	During the next Review, ASC staff will pay particular attention to this area for compliance with Title XI and the AQB Criteria.

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	YES	NO	AC					
Application Process Continued:		X						
States must ensure that appraiser experience logs conform to AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; AQB Real Property Appraiser Qualification Criteria.)				ASC staff identified 3 appraisal experience logs submitted by applicants for certification that did not contain all of the required information.	On February 11, 2013 the Board reported that Program staff is in the process of contacting the identified applicants and obtaining corrected experience logs with the required information.	The Board must, within 60 days of the date of this Report, provide ASC staff with a written report identifying each individual contacted and what documentation was provided to the Board to support compliance with the minimum AQB Criteria. For those individuals unable to provide the required documentation, the Board must recall the individual's credential and over-stamp it to note the individual is ineligible to appraise property for federally related transactions, and must report the individual as "Inactive" on the National Registry.	To strengthen the Program, Vermont should implement an effective policy and procedure to ensure that appraiser experience logs conform to the minimum AQB Criteria.	During the next Review, ASC staff will pay particular attention to this area for compliance with Title XI and AQB Criteria.

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	YES	NO	AC					
Reciprocity:	X			No compliance issues noted.	N/A	None	None	None
Education:	X			No compliance issues noted.	N/A	None	None	None
Enforcement:		X		Vermont had 17 outstanding complaints of which 10 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. Of those 10 cases, 9 were in various stages of the disciplinary process, and 1 was still under investigation.	On February 11, 2013 the Board reported that disciplinary process changes have been instituted so that complaints involving Vermont appraisers are now given priority as to investigation and prosecution. Individual case management lists have also been recently created for each Board member to track their own cases to ensure compliance with the 12-month rule.	Vermont must monitor its revised processes to ensure timely processing of complaints to reduce the backlog of aged complaints, and to ensure that the complaints of appraiser misconduct or wrongdoing are resolved in a timely manner as required by ASC Policy Statement 10E.	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.