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Appraisal Subcommittee

Federal Financial Institutions Examination Council

January 14, 2014

Mr. Thomas Stevens, Board Chair
Board of Real Estate Appraisers
301 South Park, 4th Floor
Helena, MT 59602

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

Dear Mr. Stevens:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Montana appraiser regulatory program (Program) on September 24-26, 2013, to determine the Program's compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended.

The ASC considered the preliminary results of the Review and the State's response to those results. The Program is given an ASC Finding of "Needs Improvement." The final ASC Compliance Review Report (Report) is attached.

The ASC identified the following areas of non-compliance:

- States must, at a minimum, adopt and/or implement all relevant AQB Criteria;¹
- Audits of affidavits for continuing education credit claimed must be completed within sixty days from the date the renewed credential is issued;²
- States must ensure that appraiser education courses are consistent with AQB Criteria;³ and
- States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.⁴

ASC staff will confirm appropriate corrective actions have been taken in a Follow-up Review in approximately 9 months. Montana will remain on a two-year Review Cycle.

This letter and the attached Report are public records and available on the ASC website. Please contact us if you have any questions about this Report.

Sincerely,



Arthur Lindo
Chairman

Attachment

cc: Ms. Sharon Peterson, Executive Director
Mr. Adam De Yong, Division Administrator

¹ Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. § 3345; Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 1.

² Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 4.

³ Title XI § 1118 (a), 12 U.S.C. § 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 6.

⁴ Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 7.

ASC Finding Descriptions

| ASC Finding | Rating Criteria | Review Cycle* |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| Excellent | <ul style="list-style-type: none"> • State meets all Title XI mandates and complies with requirements of ASC Policy Statements • State maintains a strong regulatory Program • Very low risk of Program failure | 2-year |
| Good | <ul style="list-style-type: none"> • State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements • Deficiencies are minor in nature • State is adequately addressing deficiencies identified and correcting them in the normal course of business • State maintains an effective regulatory Program • Low risk of Program failure | 2-year |
| Needs Improvement | <ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program • State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies • State regulatory Program needs improvement • Moderate risk of Program failure | 2-year with additional monitoring |
| Not Satisfactory | <ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program • State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing • State regulatory Program has substantial deficiencies • Substantial risk of Program failure | 1-year |
| Poor ⁵ | <ul style="list-style-type: none"> • State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements • Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program • State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies • High risk of Program failure | Continuous monitoring |

*Program history or nature of deficiency may warrant a more accelerated Review Cycle.

⁵ An ASC Finding of "Poor" may result in significant consequences to the State. See Policy Statement 5, *Reciprocity*; see also Policy Statement 8, *Interim Sanctions*.

ASC Compliance Review Report

ASC Finding: Needs Improvement
Final Report Issue Date: January 14, 2014

| | | | |
|---------------------------------------------------------------------------------------|---------------------------|--------------------------------------------------------------------------|---------------------------------------------------|
| Montana Appraiser Regulatory Program (Program) | | | |
| Montana Board of Real Estate Appraisers (Board) / Decision Making | PM: N. Fenochietti | ASC Compliance Review Date: September 24-26, 2013 | Review Period: June 2012 to September 2013 |
| Umbrella Agency: Department of Labor, Business Standards Division (Department) | | Number of State Credentialed Appraisers on National Registry: 399 | Review Cycle: Two Year with Follow-up |

| 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 | | | | | |
| Montana Statutes, Regulations, Policies and Procedures: | | | X | | | | | |
| States must have funding and staffing sufficient to carry out their Title XI-related duties. (Title XI § 1118 (b), 12 U.S.C. § 3347; ASC Policy Statement 1.) | | | | <p>Since the June 2012 Review, the Program has undergone a reorganization. The number of full time equivalent (FTE) Program positions declined from 2.6 to 1.6 FTEs. The majority of the Program's substantive administrative duties, including investigation of complaints against appraisers, are assigned to one person. As a result, the Program was unable to resolve complaints within 1 year.</p> <p>The Board's screening panel identified 16 complaints that warranted investigation since the June 2012 Review. Because of the lack of resources, none of the complaints identified by the screening panel were investigated.</p> | <p>On December 18, 2013, the Board reported to ASC staff that there was a temporary reduction in staff due to the reorganization. On December 2, 2013, a new Executive Director was hired. The new Executive Director will assume the administrative duties of the Board allowing other staff to return to their regular duties which include investigating complaints.</p> | None | None | During a Follow-up Review, and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 1. |
| Montana Statutes, Regulations, Policies and Procedures (continued): | X | | | | | | | |
| States must have a policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI. (Title XI § 1122 (b), 12 U.S.C. § 3351; ASC Policy Statement 5.) | | | | Montana's reciprocal policy does not comply with the requirements of Title XI and ASC Policy Statement 5. | On December 18, 2013, the Board provided ASC staff with a Title XI compliant reciprocal policy that went into effect September 26, 2013. | None | None | The Board's resolution addresses the concern. |
| Montana Statutes, Regulations, Policies and Procedures (continued): | | X | | | | | | |
| States must, at a minimum, adopt and/or implement all relevant AQB Criteria. (Title XI §§ 1116 (a), (c) and (e), 12 U.S.C. § 3345; Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 1.) | | | | AQB Criteria requires that Supervisory Appraisers shall not have been subject to any disciplinary action within any jurisdiction within the last two years that affects the Supervisory Appraiser's legal eligibility to engage in appraisal practice. Montana Rule 24.207.518 has no such requirement. | On December 18, 2013, the Board reported to ASC staff that it will promulgate rules consistent with AQB Criteria. | Montana must amend its Rules to bring them into compliance with AQB Criteria, and provide the ASC staff with a copy of the final Rules once adopted. | None | During a Follow-up Review, and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria. |

ASC Compliance Review Report

ASC Finding: Needs Improvement
Final Report Issue Date: January 14, 2014

Montana Appraiser Regulatory Program (Program)

Montana Board of Real Estate Appraisers (Board) / Decision Making PM: N. Fenochietti ASC Compliance Review Date: September 24-26, 2013 Review Period: June 2012 to September 2013

Umbrella Agency: Department of Labor, Business Standards Division (Department) Number of State Credentialed Appraisers on National Registry: 399 Review Cycle: Two Year with Follow-up

| 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 | | | | | |
| Montana Statutes, Regulations, Policies and Procedures (continued): | | X | | | | | | |
| States must, at a minimum, adopt and/or implement all relevant AQB Criteria. (Title XI § 1116 (a), (c) and (e), 12 U.S.C. § 3345; Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 1.) | | | | <p>A review of the Program's Rules revealed the following inconsistencies with AQB Criteria regarding: (1) the experience log; and (2) continuing education (CE).</p> <p>AQB Criteria requires an appraisal experience log to include the signature and State certification number of the Supervisory Appraiser. Montana Rule 24.207.509 has no such requirement.</p> <p>AQB Criteria requires all credential holders to complete the equivalent of 14 class hours of instruction in courses or seminars for each year during the period preceding the renewal. Montana Rule 24.207.517 requires trainees to meet the CE requirement after the original licensing year.</p> | On December 18, 2013, the Board reported to ASC staff that the experience log has been updated and the Board will promulgate rules consistent with AQB Criteria. | Montana must amend its Rules to bring them into compliance with AQB Criteria, and provide the ASC staff with a copy of the final Rules once adopted. | None | During a Follow-up Review, and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria. |
| Temporary Practice: | X | | | No compliance issues noted. | N/A | None | None | None |
| National Registry: | X | | | | | | | |
| States using the ASC extranet application must implement written policies to ensure that all personnel with access to the National Registry protect the right of access and not share the User Name or Password with anyone. (Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 3.) | | | | States using the ASC extranet application must implement written policies to ensure that all personnel with access to the National Registry protect the right of access and not share the User Name or Password. Montana does not have a written policy protecting access to the ASC extranet. | On December 18, 2013, the Board provided ASC staff with a written policy to protect the right of access to the National Registry. | None | None | The Board's resolution addresses the concern. |
| Application Process: | | X | | | | | | |
| Audits of affidavits for continuing education credit claimed must be completed within sixty days from the date the renewed credential is issued. (Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 4.) | | | | The Board did not conduct a prompt post-approval audit within 60 days from the date the renewed credential was issued in compliance with ASC Policy Statement 4. | On December 18, 2013, the Board reported to ASC staff that the Department has implemented a new procedure that will ensure continuing education audits are completed within 60 days. | The Board must complete each continuing education audit within 60 days of the date the credential was issued. | None | During a Follow-up Review, and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 4. |

ASC Compliance Review Report

ASC Finding: Needs Improvement
Final Report Issue Date: January 14, 2014

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|----|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | YES | NO | AC | | | | | |
| Reciprocity: | | | X | | | | | |
| In order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI. (Title XI § 1122 (b), 12 U.S.C. § 3351; ASC Policy Statement 5.) | | | | Montana's reciprocal policy did not comply with the requirements of Title XI and ASC Policy Statement 5. | On December 18, 2013, the Board provided ASC staff with a Title XI compliant reciprocal policy that went into effect September 26, 2013. | None | None | During a Follow-up Review, and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 5. |
| Education: | | X | | | | | | |
| States must ensure that appraiser education courses are consistent with AQB Criteria. (Title XI § 1118 (a), 12 U.S.C. § 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 6.) | | | | Montana approved an education course with content that appeared to be inconsistent with AQB Criteria for CE. There was not sufficient documentation in the file to determine the appropriateness of the course. This was a professional organization's ethics course. | On December 18, 2013, the Board reported to ASC staff that the Department has implemented a new procedure that will ensure approved course files include the materials required to support Board approval. | The Board must ensure that all documentation to support course approval is available to ASC staff during their Compliance Review. | None | During a Follow-up Review, and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 6. |
| Enforcement: | | X | | | | | | |
| States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances. (Title XI § 1118 (a), 12 U.S.C. § 3347; ASC Policy Statement 7.) | | | | Montana had 80 outstanding complaints of which 22 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. Since the previous Review in June 2012, the Board's screening panel referred 16 complaints for investigation. None of those investigations have proceeded. This has been an area of noncompliance since the September 2009 Review. | On December 18, 2013, the Board reported to ASC staff that the Board and Department have rearranged work assignments to allow the Board's full-time investigator to dedicate more time to performing appraisal reviews and completing investigations. | Montana must monitor its complaint investigation procedures to ensure timely processing of complaints, to reduce the backlog of aged complaints, and to ensure complaints of appraiser misconduct or wrongdoing are resolved in a timely manner as required by ASC Policy Statement 7. | None | During a Follow-up Review, and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 7. |