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Appraisal Subcommittee

Federal Financial Institutions Examination Council

June 26, 2000

Debra Runyon, Chairperson
Texas Appraiser Licensing and Certification Board
P.O. Box 12188
Austin, TX 78711-2188

Dear Ms. Runyon:

Thank you for your cooperation and your staff's assistance in the April 26-28, 2000 Appraisal Subcommittee ("ASC") review of the Texas Appraiser Licensing and Certification Board ("Board") and appraiser regulatory program ("Program").

We commend your Board and staff for their efforts in correcting serious concerns identified during our 1997 field review. We realize that these changes required statutory and regulatory amendments and were not easily accomplished. We are particularly impressed with the improvements to your complaint investigation and resolution procedures. The addition of a staff investigator and the reorganization of the Enforcement Committee structure and operation have dramatically improved your enforcement program. The fact that complaints of appraiser misconduct are resolved in four to six months, compared to the 18-24 months previously required, illustrates the program's effectiveness. This reduced average resolution time was achieved even though the annual number of complaints has more than doubled since 1997. The only remaining weakness in your enforcement program involves the lengthy delays involved in resolving cases referred to the State Office of Administrative Hearing for formal hearing. We encourage you to continue your efforts to ensure their timely resolution.

As a result of our current review, we identified the following issues that, if adequately addressed, will improve your Program and bring it into compliance with the requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI").

- **Temporary Practice Restrictions**

Texas' statute and regulations limit temporary practice permits to sixty days. This limitation is "burdensome" under Title XI, as set forth in ASC Policy Statement 5. Policy Statement 5 requires that temporary practice permits be granted for at least six months with the ability for the appraiser to obtain at least one easy extension. We addressed this limitation in our 1997 review letter and requested the Board to initiate necessary changes. After our 1997 review, you attempted to address this concern by amending your regulations to grant a five-month extension. Your staff and our staff discussed the proposed regulatory language by email and telephone in 1997. In our last email on this subject, dated July 21, 1997, Ben Henson stated: "It is our understanding that the intent of this proposed rule/regulation is to serve as an interim policy until the Texas legislature reconvenes and can address the necessary statutory change. Our comments are based on this premise." You then adopted and implemented the proposal. While we considered the regulatory changes an improvement as an interim measure, we did not deem them to be a permanent solution.

The Board must initiate the necessary actions to conform Texas' temporary practice provisions to Title XI and ASC Policy Statement 5.

- **Continuing Education**

During the Education Committee meeting on April 28, 2000, our staff observed the committee's and, subsequently, the Board's approval of four distance education courses sponsored by the National Association of Master Appraisers ("NAMA"). This action raised two concerns.

First, AQB criteria require distance education courses for certified real estate appraisers to be:

- a. Offered by an accredited college or university;
- b. Accepted for college credit through the American Council on Education's College Credit Recommendation Service (formerly the ACE/PONSI program); or
- c. Approved through the AQB Course Approval Program.

Yet, because of the education approval method employed by the Board, approval has been granted for nonconforming distance education courses not meeting one of these three established criteria.

We understand approval of these courses was rescinded in a letter to NAMA dated May 1, 2000, but the Board must ensure other courses were not similarly approved.

Second, the Education Committee and Board automatically approve any continuing education course offered by a sponsor of the Appraisal Foundation. While the State's statute and/or regulations specify "national appraisal organizations," the Board has implemented this provision only for sponsors of the Appraisal Foundation. This is inappropriate. Being a sponsor of the Appraisal Foundation, or any national appraisal organization, does not, in and of itself, ensure that all educational offerings of that organization meet the AQB requirements for acceptable appraiser education.

To address these concerns, the Board needs to:

1. Amend its statute and/or regulations eliminating the automatic approval of educational offerings by "national appraisal organizations;"
2. Review all courses approved under the "automatic approval of national appraisal organizations" approach and all approved distance education courses for consistency with AQB criteria, withdrawing approval if necessary; and
3. In the future, ensure that all continuing education courses meet AQB criteria.

- **Experience Audits**

Under Texas statute, applicants for licensure or certification may submit an affidavit attesting that they have the requisite hours of experience for the classification to which they are applying.

While the ASC does not endorse any particular application method, as discussed in ASC Policy Statement 10, States must have a reliable means to validate the experience credit claimed for certification or licensure. By statute, the Board is authorized to audit up to five percent of all applicants for experience verification. The Board and its staff are not using this authority consistently to verify applicants' experience hours. Since the statute was amended to authorize experience audits, Texas has licensed and certified hundreds of appraisers. For example, we were given a listing of 449 individuals issued licenses or certificates between January 1998 and March 2000. Twenty-two of these appraisers should have been audited, but there are no records of any audits. Board staff was able to identify only nine experience audits performed since the statutory audit authority was granted in 1993. In addition, even if you were to perform the full number of statutorily authorized audits, the number of audits performed would be very small and might not result in a statistically valid sample.

The Board needs to implement consistently its statutory "5% audit authority" to verify appraiser experience claimed on licensing and certification applications. In addition, the Board should explore ways to increase the number of audits performed to result in a statistically meaningful sample.

- **Provisional Licensing**

Texas has a Provisional License category that permits appraisers so designated to appraise properties for federally related transactions without having any appraisal experience or being supervised. While there were only 24 provisional appraisers at the time of our review, the numbers have doubled each of the last three years. Although *ASC Policy Statement 2: Appraiser Classification* states that the ASC believes the need for transitional/provisional licenses no longer exists, the Policy recognizes the use of this category as a mechanism to facilitate an individual's entrance into the appraisal profession. Typically, States that continue to use this approach do not allow the provisional license to be renewed and limit to two years the time in which an individual must earn the requisite 2,000 hours of experience. This classification usually is used as an alternative to the Trainee classification. Texas is unique in offering both provisional and trainee classifications. We recognize that a State's licensure requirements can be flexible and need not meet the AQB's licensing criteria. Yet, we remain concerned that provisionally licensed appraisers are legally eligible to perform appraisals in connection with federally related transactions without having any experience or being directly supervised by a licensed or certified appraiser. We will continue to monitor this classification, particularly regarding the number of appraisers and the frequency of complaints, to ensure the classification is meaningful.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time period or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

If you have any questions, please contact us.

Sincerely,

Thomas E. Watson, Jr.
Chairman