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## Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 2, 2007

Ms. Christine Martine, Executive Director  
Virginia Real Estate Appraiser Board  
Department of Professional and Occupational Regulation  
9960 Maryland Drive, Suite 400  
Richmond, Virginia 23233-1463

Dear Ms. Martine:

This letter responds to your August 30, 2007 letter responding to the Appraisal Subcommittee's ("ASC") June 27, 2007 field review letter. Each concern is discussed below.

- **Board regulations and practices regarding appraiser reinstatement from Inactive status did not conform to Appraiser Qualifications Board ("AQB") criteria.**

During the December 2006 field review, ASC staff found that the Virginia Real Estate Appraiser Board's ("Board") regulations and practices allowed an appraiser to place his or her credential into Inactive status for an unlimited amount of time, provided the appraiser paid specified annual fees. The regulations required that, to reactivate a license or certification from Inactive to Active status, the appraiser must take 28 hours of continuing education, including the most recent edition of the 7-hour National USPAP Update Course.

In September 2005, the AQB adopted an Interpretation regarding waivers and deferrals of continuing education. That Interpretation provides that, prior to reactivating an Inactive credential, the credential holder must complete all continuing education that would have been required had he or she not been Inactive, including the most recent edition of the 7-hour National USPAP Update Course.

To resolve this concern, the ASC's June 27<sup>th</sup> letter set out specific actions that the Board needed to take:

1. Review its records and identify all appraisers who reactivated their credentials since September 2005;
2. Within 30 days of receipt of the June 27<sup>th</sup> letter, determine whether the appraisers identified in step one have taken all continuing education that would have been required if the credential holder had been in active status, including the most recent edition of the 7-hour National USPAP Update Course;
3. Within 45 days of receipt of June 27<sup>th</sup> letter, notify each appraiser who did not obtain the necessary continuing education to successfully complete the appropriate education within 30 days of the Board's notification letter;

4. Within 90 days of receipt of that letter, initiate appropriate action against any appraiser who fails to document compliance with the AQB Interpretation:
  - a. For certified appraisers, begin the process to downgrade their credentials to a non-certified level;
  - b. For licensed appraisers, modify the State's National Registry data submissions to reflect these appraisers as non-AQB Compliant;
5. Initiate the necessary amendments to Board regulations, policies, and practice to ensure compliance with AQB criteria regarding reinstatement of Inactive credentials;
6. Refrain from reinstating appraisers who fail to conform to AQB certification criteria; and
7. Within 120 days of receipt of the June 27<sup>th</sup> letter, send the ASC a spreadsheet listing each appraiser identified in step one, and include each appraiser's status relative to this action plan.

In your August 30<sup>th</sup> response letter, you stated that the Board had drafted and approved a conforming regulatory amendment and included the amendment in a legislative package containing other regulatory amendments relating to the 2008 AQB criteria changes. The package will be submitted to the Governor's office in a special exemption package this month. You informed ASC staff that an exempt action is different from emergency rulemaking: (1) the exempt process entails filing the required documents with the appropriate parties; and (2) the regulation is effective thirty days after publication in the State's Register of Regulations, without additional public comment. The Board anticipates that these rule changes will be adopted and effective on January 1, 2008. Please keep us advised about the status of this proposed regulation change.

In your August 30<sup>th</sup> letter, you also stated that the Board's legal counsel recommended that the Board not retroactively require those appraisers who have reactivated since September 2005 to take any delinquent continuing education that would have been required under the AQB Interpretation. In an e-mail message to ASC staff on October 23<sup>rd</sup>, you stated that in completing steps one, two, and five, you identified one licensed and three certified appraisers who reactivated their credentials since September 2005. You further stated that all four appraisers had earned sufficient continuing education to satisfy the AQB Interpretation.

Because all four appraisers were in compliance with the Interpretation when their credentials were activated, you did not need to comply with steps three, four, six or seven. It is important to note that, notwithstanding advice of your counsel, if the Board had discovered that the four appraisers had reactivated their credentials without earning sufficient continuing education as required by the AQB Interpretation, the Board would have had to comply with Title XI and the AQB criteria by taking the four curative steps noted above. If you had failed to take those steps, the three certified appraisers would not have been able to legally perform appraisals in connection with federally related transactions, and the Board would have had to overstamp their credentials with the phrase, "Not Eligible To Appraise Federally Related Transactions." Their credentials also would have become "Inactive" on the National Registry. In addition, the licensed

appraiser's National Registry entry would have had to be changed from "AQB Compliant" to Non-AQB Compliant."

- **Virginia submits inaccurate disciplinary action data to the ASC for inclusion in the National Registry.**

Thank you for working with Ray Seward, ASC Information Management Specialist, to ensure that existing errors in National Registry data will be corrected and that your data reporting process will be changed to ensure that future data submissions contain accurate data. We understand that the Board found that the errors related to appraisers who had placed their credentials on Inactive status and therefore were not currently performing appraisals. Because of a data processing input error, these appraisers mistakenly appeared on the Registry with "other" under the disciplinary action heading. Your staff is trying to determine how to rectify these errors. Kevin Hoeft, your new Board Administrator, will be submitting a list of persons affected by this input error.

- **Virginia needs to ensure implementation of regulatory amendments to conform to a December 2003 AQB Interpretation.**

We understand that the Board has drafted and approved a conforming regulatory amendment and included the amendment in a legislative package containing other regulatory amendments relating to the 2008 AQB criteria changes. The package will be submitted to the Governor's office in a special exemption package in November. The Board anticipates that these rule changes will be adopted and effective on January 1, 2008. Please keep us advised about the status of this proposed regulation change.

Our field review letter, your response, and any other previous correspondence between us regarding the field review are now publicly available on our Web site. Please contact us if you have further questions.

Sincerely,

Ben Henson  
Executive Director

cc: Mr. John C. Harry, III, Chair