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Appraisal Subcommittee

Federal Financial Institutions Examination Council

August 25, 2004

**Subject: Amendments to ASC Policy
Statement 10**

Dear State Appraiser Regulatory Official:

On August 11, 2004, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") adopted the attached amendment to ASC Policy Statement 10: *Enforcement*, regarding the use of affidavits or other affirmations regarding appraiser experience and education. This amended policy statement provides guidance to State appraiser regulatory agencies on the acceptability of affidavits and other affirmations concerning experience and education in the State's procedures for issuing initial certifications, credential upgrades to certifications, and certification renewals. **The new provisions become effective January 1, 2005.**

During the past two years, the ASC performed field reviews on several States that accept affidavits for qualifying education and/or experience, or continuing education. Some of these States did not perform any type of review or audit regarding these affidavits. In States performing affidavit audits, failure rates ranged from 18% to 66%, and some States did not take disciplinary action against applicants who falsified government documents. Some States allowed applicants who failed the audits extended periods of time to obtain the necessary education while allowing them to continue performing appraisals. In all cases, individuals who did not have the required amounts of education, experience, or continuing education under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI") were allowed to perform appraisals in connection with federally related transactions. For these reasons, the ASC adopted a policy regarding the acceptance of affidavits by States.

On March 31, 2004, the ASC sent a letter to all States seeking comments regarding the proposed amendments. The ASC received comments from eight States:

- Several States expressed concerns about certified appraisers having to list, as part of the affidavit, continuing education courses taken. The States believe that listing courses would not work with already existing, or soon to be implemented, automated credential renewal procedures. The States noted that these procedures are used by many professional and occupational licensing boards, and that such a listing requirement for one State board would be problematic at best, and in all likelihood, costly to implement.

While the ASC still believes that listing courses would help deter appraisers from misrepresenting compliance with continuing education criteria, the ASC appreciates the burden that this requirement might cause States. After considering the States' comments, the ASC determined that the benefits of requiring appraisers to list courses did not outweigh the operational and potential financial burdens placed on the States. Although not a requirement, the

ASC encourages States to incorporate a course listing feature in their renewal procedures, when possible.

- One State asked for clarification regarding acceptance of experience logs for qualifying experience. The State was concerned that the proposed policy would prohibit the use of experience logs.

The appropriate use of experience logs would not be prohibited. Experience logs are used routinely by most States. The applicant submits a log that lists his or her appraisal experience. The log contains information about each appraisal, such as the date of the appraisal, property type, property address, and time spent on the appraisal. Using this log, the State determines whether the applicant's experience meets Appraiser Qualifications Board ("AQB") criteria. Additionally, the State might select certain appraisals from the log and direct the applicant to submit the appraisal reports for review for compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP") and State law. We do not consider experience logs to be affidavits.

- One State asked for clarification on the time frame for completing the audit, proposed at 60 days from the date of issuance of the renewed credential, and whether the time frame included the completion of any related enforcement action.

The 60-day time frame applies only to the audit, not to subsequent enforcement actions.

- One State expressed concern that the proposed requirement to expeditiously take action to suspend an appraiser's eligibility to perform appraisals in federally related transaction would violate the appraiser's property rights inherent in the license and the individual's right to due process.

The ASC does not expect States to violate an appraiser's property rights, due process, or any other legal entitlement to conform to ASC Policy Statement 10. The ASC expects the State to honor all Federal and State civil rights while, at the same time, taking appropriate disciplinary action against appraisers in the most expeditious manner. The ASC intentionally used the term "most expeditious manner" to provide flexibility from State to State to account for differences in State law.

- One State expressed concern regarding the action a State must take if more than 10% of the audited appraisers failed to meet AQB criteria. The proposal stated that States could audit every affidavit; stop using affidavits; or publish the names of non-compliant appraisers. The State noted that many States do not have the resources to implement either of the first two alternatives and that the third alternative already is in place in many States.

The ASC notes that the three alternatives are not exclusive. They were listed merely as examples of remedial actions that might be reasonable given the situation in an individual State. Other actions also might be reasonable and appropriate.

The ASC will consider each State's situation on a case-by-case basis to determine whether the remedial action was effective and acceptable. It is likely that the percentage of appraisers

failing the audit will affect that consideration. For example, a State with an 11% failure rate would not require the same remedial action as a State with a 50% failure rate.

If a State's audit reveals that more than 10% of the audited certified appraisers failed to meet AQB criteria, we strongly encourage that State to contact ASC staff to discuss appropriate remedial action.

- One State asked for more guidance regarding what the ASC would consider to be an acceptable number of renewing appraisers to audit.

The new policy requires States to include a reasonable representation of the appraiser population being sampled and that the State's validation procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. By not specifying a minimum percentage, the ASC hoped to address the differences in State systems and audit procedures, and provide the States with flexibility to implement appropriate sampling procedures given their own programs. Several factors could affect the appropriate selection of audit candidates. If a State has questions regarding this issue, we encourage the State to contact ASC staff to discuss the specifics regarding that State.

Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director

Attachment