

□   □   □   □   □   □

# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

October 13, 2010

Mr. James B. Ratliff, Chairman  
Texas Appraiser Licensing and Certification Board  
P. O. Box 12188  
Austin, TX 78711-2188

RE: ASC Compliance Review of Texas' appraiser regulatory program

Dear Mr. Ratliff:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of Texas's appraiser regulatory program (Program) on May 19-21, 2010. 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 (Title XI). The ASC identified the following concern:

- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.<sup>1</sup>

In its response, the State indicated corrective actions were taken as detailed in the attached Report. During the next Review, ASC staff will confirm these corrective actions have taken place and are appropriate. Please also be advised 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,



Deborah S. Merkle  
Chairman

Attachment

cc: Mr. Douglas E. Oldmixon, Administrator

---

<sup>1</sup> Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

## ASC Compliance Review Report

Finding: Not In Substantial Compliance

Report Issue Date: Month 00, 0000

**Texas Appraiser Regulatory Program (Program)**

|  |                    |   |  |
|--|--------------------|---|--|
| <b>Texas Appraiser Licensing and Certification Board (Board) / Decision Making</b> | PM: N. Fenochietti | ASC Compliance Review (Review) Date: May 19-21, 2010                | Review Period: October 2008 - May 2010 |
| Umbrella Agency: Texas Real Estate Commission                                      |                    | Number of State credentialed appraisers on National Registry: 5,776 | Issue: FINAL                           |

| Requirement/Guidance  | Compliance (YES/NO)<br>Areas of Concern (AC) |    |    | ASC Staff Observations  | State Response   | Required State Actions | Recommended State Actions   | General Comments   |
|---|--|----|----|---|--|------------------------|---|--|
|   | YES  | NO | AC |   |  |                        |   |  |
| <b>Texas Statutes, Regulations, Policies and Procedures:</b>  |  |    | X  |   |  |                        |   |  |
| States must use a reliable means of validating appraiser experience claims on all initial applications. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10G.) |  |    |    | <p>A review of the State's statutes revealed the following inconsistency with ASC Policy Statement 10G, which directs States to review a representative sample of an applicant's work product to determine among other considerations whether the work is USPAP-compliant.</p> <p>Texas Occupations Code, Subchapter E, 1103.206(b) provides that the Board review the appraisal experience of no more than 5% of licensed and certified appraiser applicants.</p> <p>Despite the conflicting provision in the State's statute, the Board's practices comply with ASC Policy Statement 10G.</p> | On August 9, 2010, the Board reported to ASC staff that this item will be addressed in a "housekeeping" bill in the upcoming legislative session, which begins in January of 2011. | None                   | The Board should continue the process of amending its statute to be consistent with ASC Policy Statement 10G. | Upon adoption, please provide ASC staff with copies of the adopted statutory change. |

## ASC Compliance Review Report

Finding: Not In Substantial Compliance

Report Issue Date: Month 00, 0000

**Texas Appraiser Regulatory Program (Program)**

Texas Appraiser Licensing and Certification Board (Board) / Decision Making

PM: N. Fenochietti

ASC Compliance Review (Review) Date: May 19-21, 2010

Review Period: October 2008 - May 2010

Umbrella Agency: Texas Real Estate Commission

Number of State credentialed appraisers on National Registry:  
5,776

Issue: FINAL

| Requirement/Guidance  | Compliance (YES/NO)<br>Areas of Concern (AC) |    |    | ASC Staff Observations  | State Response  | Required State Actions | Recommended State Actions | General Comments                              |
|---|--|----|----|---|---|------------------------|---------------------------|---|
|   | YES  | NO | AC |   |   |                        |                           |   |
| <b>Texas Statutes, Regulations, Policies and Procedures (continued):</b>  | X  |    |    |   |   |                        |                           |   |
| The ASC shall monitor State agencies for the purpose of determining whether policies, practices and procedures are consistent with Title XI. (Title XI § 1118 (a), 12 U.S.C. 3347.) |  |    |    | During the Review, ASC staff was not permitted to attend the Board's executive session. The Board's Assistant Attorney General invoked attorney-client privilege and did not permit entrance by ASC staff. When performing Compliance Reviews, ASC staff attends Board's executive sessions as part of its monitoring responsibility pursuant to Title XI. Although ASC staff was provided with information addressed during the executive session, ASC staff expects to attend executive sessions absent a compelling basis for non-admission. | On August 9, 2010, the Board reported to ASC staff that this situation was caused by a miscommunication between Board staff and the staff of the Texas Attorney General. The Board affirmed that ASC staff, as part of the Compliance Review process, will be allowed to attend all executive sessions in the future. | None                   | None                      | The Board's resolution addresses the concern. |
| <b>Temporary Practice:</b>  | X  |    |    |   |   |                        |                           |   |
|   |  |    |    | No compliance issues noted.   | N/A   | None                   | None                      | None  |
| <b>National Registry:</b>   | X  |    |    |   |   |                        |                           |   |
|   |  |    |    | No compliance issues noted.   | N/A   | None                   | None                      | None  |
| <b>Application Process:</b>   | X  |    |    |   |   |                        |                           |   |
|   |  |    |    | No compliance issues noted.   | N/A   | None                   | None                      | None  |
| <b>Reciprocity:</b>   | X  |    |    |   |   |                        |                           |   |
|   |  |    |    | No compliance issues noted.   | N/A   | None                   | None                      | None  |
| <b>Education:</b>   | X  |    |    |   |   |                        |                           |   |
|   |  |    |    | No compliance issues noted.   | N/A   | None                   | None                      | None  |

## ASC Compliance Review Report

Finding: Not In Substantial Compliance

Report Issue Date: Month 00, 0000

**Texas Appraiser Regulatory Program (Program)**

Texas Appraiser Licensing and Certification Board (Board) / Decision Making

PM: N. Fenochietti

ASC Compliance Review (Review) Date: May 19-21, 2010

Review Period: October 2008 - May 2010

Umbrella Agency: Texas Real Estate Commission

Number of State credentialed appraisers on National Registry:  
5,776

Issue: FINAL

| Requirement/Guidance   | Compliance (YES/NO)<br>Areas of Concern (AC) |    |    | ASC Staff Observations   | State Response  | Required State Actions   | Recommended State Actions | General Comments   |
|--|--|----|----|--|---|--|---------------------------|--|
|  | YES  | NO | AC |  |   |  |                           |  |
| <b>Enforcement:</b>  |  | X  |    |  |   |  |                           |  |
| States should resolve all complaints filed against appraisers within one year, except for special documented circumstances. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.) |  |    |    | <p>Texas had 491 outstanding complaints of which 110 were unresolved for more than one year. Of those 110 complaints, 41 fall under the exception for special documented circumstances.</p> <p>It is important to note that while Texas has 69 aged complaints, it is a significant reduction compared to the 2008 Review Finding of 91 aged complaints.</p> | <p>On August 9, 2010, the Board reported to ASC staff that the addition of staff to the Board's enforcement function since the 2008 Review has greatly increased and improved the ability to investigate and resolve complaints in a timely manner. The number of complaints pending for more than one year has decreased despite an increase in overall complaint volume and severity. The Board is in the process of hiring an additional investigator. The Board stated that they expect the number of aged complaints will continue to decrease.</p> <p>Board Staff reported to ASC staff that during the Review Period there was an increase in mortgage fraud cases. A State law implemented in 2007 requires the Program to cooperate with law enforcement in investigating mortgage fraud. The process has been extremely successful, and resulted in an increase in the filing of appraisal enforcement cases.</p> | <p>The Board must provide periodic updates to ASC staff on the Board's efforts to implement procedures and maintain resources for resolving the complaint backlog.</p> <p>The Board must submit complaint logs to ASC staff quarterly. ASC staff will analyze each log to determine if progress is being made. If not, the ASC may place additional requirements upon the State.</p> <p>The ASC Policy Manager assigned to Texas will work with Board staff to determine the timing and content of the complaint logs.</p> | None                      | <p>The Board, Board staff, and Peer Review Committee members have worked diligently since the 2008 Review to improve the timeliness of complaint processing. ASC staff looks forward to seeing an improvement in the complaint investigation and resolution program during the next Review. Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.</p> |