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Appraisal Subcommittee

Federal Financial Institutions Examination Council

March 21, 2011

Mr. Thomas Rife, Chairman
Mr. James Martin, Executive Director
Arkansas Appraiser Licensing and
Certification Board
101 East Capitol, Suite 430
Little Rock, AR 72201

RE: Appraisal Subcommittee Staff Follow-Up Review

Dear Mr. Rife:

Thank you for your cooperation and your staff's assistance in the February 4, 2011 Appraisal Subcommittee (ASC) staff Follow-up Review. This was a Follow-up Review of the August 13, 2010 ASC Compliance Review of Arkansas' appraiser regulatory program.

As detailed in the attached Follow-up Report, Arkansas resolved all of the concerns identified in the August 13, 2010 Compliance Review Report. Arkansas also made an effort to address the primary area of concern identified. We commend Arkansas' Program for taking the necessary corrective actions.

This letter and the attached Follow-up 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,



James R. Park
Executive Director

Attachment

ASC Staff Follow-Up Report: 2010 Compliance Review

Arkansas Appraiser Regulatory Program (Program)						
Arkansas Appraiser Licensing and Certification Board (Board)			Follow-Up Review Date: February 4, 2011	Follow-Up Report Issue Date: March 21, 2011		
Independent Agency			Compliance Review Date: August 13, 2010			
Number of State Credentialed Appraisers on National Registry: 838			PM: V. Ledbetter-Metcalf			
Requirement/Guidance	ASC Staff Assessment Compliance (Yes/No) Areas of Concern (AC)			Required/Recommended State Actions from the August 16, 2010 Compliance Review	Status as of February 4, 2011 Follow-Up	Further Required Actions/Comments
	Yes	No	AC			
Arkansas Statutes, Regulations, Policies and Procedures:	X					
Board members, and any persons in policy or decision-making positions, must perform their responsibilities consistent with Title XI. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 1.)				The Required State Action in the ASC Compliance Review Report (ASC Report) specified that the Board must establish, within 60 days of receipt of the Report, written procedures for handling complaints, applications, and renewals involving Board members to ensure compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI).	On October 12, 2010, the Board drafted a resolution which was finalized on December 14, 2010. The resolution required all members to annually sign a document vowing to implement in a fair, equitable, and non-discriminatory manner: (1) the statutes and regulations which include application and renewal requirements; and (2) complaint procedures. As noted below, the Board specifically developed written procedures for complaints involving Board members.	Further Required Actions: None Comments: The actions taken by the Board demonstrate a commitment to ensure performance of responsibilities in a manner consistent with Title XI.
National Registry:	X					
States must submit all disciplinary actions for inclusion on the National Registry. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 9A.)				The ASC Report did not specify a Required State Action, but noted that during the Follow-up Review, ASC staff would pay particular attention to this area for compliance with ASC Policy Statement 9A.	Since the last Review, all disciplinary actions taken by the Board were reported to the ASC for inclusion on the National Registry.	Further Required Actions: None Comments: None

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Application Process:	X					
States must use a reliable means of validating 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.)				The Required State Action in the ASC Report ordered the Board to obtain from identified appraisers in question (including the appraiser who failed to include the specific address of each assignment) experience logs that properly documented USPAP-compliant experience in the appraisal of real property and validated the experience claims. For those individuals unable to demonstrate the requisite hours of USPAP-compliant experience, the Board was required to: (1) downgrade the individual's credential to a non-certified level and report the downgrade to the ASC for inclusion on the National Registry; or (2) recall the individual's credential and over-stamp to note the individual is ineligible to appraise property for federally related transactions, and report the individual to be removed from the National Registry.	Board staff obtained experience logs from the appraisers in question that adequately listed the required number of USPAP-compliant work hours. The individual who failed to identify the addresses for the assignments claimed updated the log previously provided by adding the addresses. The individual with a log containing non-USPAP compliant work resubmitted experience logs that deleted inappropriate work. The Executive Director selected additional work samples from the revised log for review and determined that all but one was USPAP-compliant. ASC staff looked at the work samples and concurred. The Board denied the application of the applicant who submitted a log with a majority of non-USPAP compliant experiences.	Further Required Actions: None Comments: None

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Enforcement:	X					
States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				The Required State Action in the ASC Report instructed the Board to establish written policies and procedures on tracking the investigation and resolution of complaints, and to include procedures to notify the Deputy Director or other staff responsible for maintaining the log of all final actions taken.	The Board staff developed an excel spreadsheet that clearly reflects the status of all complaints received. In addition, the Executive Director issued a memorandum specifically setting forth the process to be used to update the spreadsheet, report discipline to the ASC, and publish in the newsletter. The memorandum calls for at least monthly staff meetings to discuss the status of all outstanding complaints. The Executive Director required all staff members to review and sign the memorandum.	Further Required Actions: None Comments: None

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Enforcement (continued):	X					
States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				The Required State Action in the Report directed the Board to establish, within 60 days of receipt of the Report, written procedures for handling complaints involving Board members.	On October 12, 2010, the Board developed a proposed written policy to apply in instances when a complaint is received against a sitting Board member. The final version was adopted on December 14, 2010. The Board also passed the resolution referenced above. While on site, we reviewed the only complaint against a Board member received since the Compliance Review, and believe it was appropriately resolved.	Further Required Actions: None Comments: The actions taken by the Board demonstrate a commitment to ensure performance of responsibilities in a manner consistent with Title XI.

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Enforcement (continued):			X			
States must regulate, supervise and discipline their certified and/or licensed appraisers. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10A.)				In the ASC Report, a concern focused on the Arkansas Appraiser Licensing and Certification Act (Act) §17-14-206(b) and recommended its repeal. That section establishes that the Board may not investigate actions of, or conduct any disciplinary hearings regarding any licensed, registrant, or certificate holder wherein the action initiating the complaint or investigation is more than three years prior to such complaint or investigation.	In response, the Board drafted legislation that would extend the statute of limitations period from three to five years, a timeframe which is consistent with the Record Keeping provision under the Ethics Rule in USPAP. During the Follow-up Review, the Chairman and staff discussed the challenges the Board faces and why the Board will not actually be pursuing the adoption of the proposed amendment. They also provided a January 20, 2011 letter from the Executive Director of the Arkansas Appraisers Association (AAA) which threatens to sue the Board and "obtain additional damages" from the Board should it move forward with the amendment. We note that the current three-year statute of limitations is a direct result of a Court Settlement between the Board and the AAA. That Settlement also required the Board to pay a substantial amount in damages.	Further Required Actions: None Comments: ASC staff will continue to monitor how this regulation affects Arkansas' enforcement program and its ability to uphold its Title XI responsibilities, and particularly ASC Policy Statement 10E.

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Enforcement (continued):			X			
States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				The ASC Report expressed a concern that §17-14-206(b) of the Act, as referenced above, results in the State's inability to investigate complaints, and/or sanction appraisers in a consistent and equitable manner, and stated that, during the Follow-up Review, ASC staff would pay particular attention to this area for compliance with ASC Policy Statement 10E.	One case was dismissed due to lack of jurisdiction after the last Compliance Review based on this statute of limitation. ASC staff reviewed the complaint, and because of the nature of the complaint, do not believe its dismissal jeopardized the integrity of the program.	Further Required Actions: None Comments: ASC staff will continue to monitor how this regulation affects Arkansas' enforcement program and its ability to uphold its Title XI responsibilities, and particularly ASC Policy Statement 10E.