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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

July 26, 2011

Ms. Ami C. Milne-Allen, Chair  
Vermont Real Estate Appraisal Board  
Office of Professional Regulation  
1 National Life Drive  
Montpelier, VT 05620-3402

RE: ASC Compliance Review of Vermont's appraiser regulatory program

Dear Ms. Milne-Allen:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of Vermont's appraiser regulatory program (Program) on November 2-3, and December 9, 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. The ASC identified the following area of non-compliance:

- 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. 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: Ms. Terry Gray, Board Administrator

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<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: July 26, 2011

**Vermont Appraiser Regulatory Program (Program)**

Vermont Board of Real Estate Appraisers (Board) / Decision Making PM: K. Klamet

ASC Compliance Review Date: November 2-3 and December 9, 2010

Review Period: October 2008 to October 2010

Umbrella Agency: Office of the Secretary of State, Office of Professional Regulation

Number of State Credentialed Appraisers on National Registry: 398

Issue: FINAL

Requirement/Guidance	ASC Finding Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Vermont Statutes, Regulations, Policies and Procedures:</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. Prior to convening the executive session, Board's Legal Counsel instructed all observers to leave, including the ASC Policy Managers.	On March 24, 2011, the Board informed ASC staff that it believes that its quasi-judicial deliberative sessions should remain closed to ASC staff to preserve the independence of the Board while functioning as a quasi-judicial entity.  The Board also informed ASC staff that Vermont law allows a quasi-judicial body to decide the outcome of a disciplinary hearing in a closed deliberative session as long as the decision is subsequently issued as a written decision and made public.	None	None	Though generally ASC staff attends Board meetings, including executive sessions, the State's response adequately addressed this concern. ASC staff is able to fulfill its monitoring through review of the Board's written decision.

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Umbrella Agency: Office of the Secretary of State, Office of Professional Regulation				Number of State Credentialed Appraisers on National Registry: 398		Issue: FINAL		
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Vermont Statutes, Regulations, Policies and Procedures Continued:			X					
States must adopt and/or implement all relevant AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				<p>A review of Vermont's regulations revealed the following inconsistencies with the Appraiser Qualifications Board Real Property Appraiser Qualification Criteria (AQB Criteria):</p> <p>(1) AQB Criteria does not allow States to grant qualifying education credit for the teaching of appraisal courses. Vermont's regulation, section 2.9(e) allows appraisers to obtain qualifying education credit for teaching of appraisal courses;</p> <p>(2) AQB Criteria requires that experience claimed by an appraiser applicant include the type of property; date of report; address of appraised property; number of actual work hours performed by the applicant on each assignment; and the signature and state certification number of the supervising appraiser if applicable. Vermont's regulation, section 2.10 (b) does not include all of the 2008 AQB Criteria requirements for the experience log;</p> <p>(3) AQB Criteria allows the State to grant up to one half of an individual's continuing education be granted for participation, other than as a student, in appraisal educational processes and programs. Vermont's regulation, section 3.2 (b) does not limit the amount of continuing education credit for participation in activities, other than as a student; and</p> <p>(4) AQB Criteria requires that prior to reactivation, a credential holder in inactive status must complete continuing education that would have been required if the credential holder had been in active status. Vermont regulation, section 3.4 does not require an applicant for reinstatement to complete the required continuing education hours that would have been required if the credential holder was in an active status, but rather allows the Board to require that the applicant complete specific courses or retake the examination.</p> <p>Despite the conflicting provisions in the regulations, ASC staff found no incidents where the regulations were applied to any aspect of the Program.</p>	On March 24, 2011, the Board reported to ASC staff that it will amend its regulations to incorporate the minimum requirements set by AQB Criteria by reference.	None	To strengthen the Program, Vermont should amend its regulations to reflect what is required in practice and in AQB Criteria.	Upon adoption, please provide ASC staff with copies of the adopted regulation changes.

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<b>Temporary Practice:</b>	X							
States must issue temporary practice permits for a minimum of six months and allow at least one easy extension of a temporary practice permit. (Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1122 (a), 12 U.S.C. 3351; ASC Policy Statement 5.)				In the processing of temporary practice permits, applicants estimate the assignment completion date, and then Program staff adds 10 days to that date. A temporary practice permit holder may request an extension. However, depending on the dates requested by the applicant, the temporary practice permit may be valid for less than 6 months.	On March 24, 2011, the Board reported to ASC staff that temporary practice permits are now being issued for a six month time period.	None	None	The Board's resolution addresses the concern.  During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 5.
<b>National Registry:</b>	X							
States must ensure they are maintaining an effective regulatory program, and proactively minimize risk of clerical error that may result in inaccurate entries to the National Registry. (Title XI § 1118 (a), 12 U.S.C 3347.)				A review of the National Registry invoices revealed that the Board submitted data and paid National Registry fees for seventy-eight appraiser temporary practice permit holders and trainees.  Board staff contributed the errors to a new computer program that did not filter out the temporary practice permits when sending data to the ASC for inclusion on the National Registry.	On March 24, 2011, the Board reported to ASC staff that the data was corrected as of November 9, 2010, and the National Registry fees were adjusted accordingly.	None	To strengthen the Program, Vermont should reconcile National Registry invoices to ensure data is correctly submitted and invoiced.	The Board's resolution addresses the concern.
<b>Application Process:</b>	X							
States must ensure that appraiser experience logs conform to AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116 (a), 12 U.S.C. 3345; AQB Real Property Appraiser Qualification Criteria.)				The Board revised its experience log forms to meet AQB Criteria. However, the log did not contain the signature of the supervising appraiser.	On March 24, 2011, the Board reported that the experience log has been amended to add the supervising appraiser's signature.	None	None	The Board's resolution addresses the concern.

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(Board) / Decision Making

PM: K. Klamet

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<b>Application Process Continued:</b>			X					
States must use a reliable means of validating continuing education claims on appraiser renewal applications. (Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10F.)				<p>The Board did not conduct a prompt post-approval audit of an adequate number of continuing education affidavits to identify appraisers who fail to comply with Federal and State law.</p> <p>Program staff reported that 10% of the licensee population was audited. However, ASC staff found that for the 2009 audit, only 24 (6%) of the renewing appraiser population were audited: 3 State licensed; 9 Certified Residential; and 12 Certified General.</p> <p>In addition, the letters to the renewed appraisers requesting continuing education audit information were not mailed until August 21, 2009. Policy Statement 10 F 5 (c) requires that the audit be completed within 60 days from the date the renewal credential is issued. Vermont's renewal date is May 31 of odd numbered years.</p>	<p>On March 24, 2011, the Board informed ASC staff that it did not complete the audit of continuing education within the required 60-day time period. The Board advised that the State was in the process of implementing a new computer system at the time of renewal, thus causing a delay in the audit.</p> <p>At the same time, the Board reported that the list of audited individuals was deleted from the computer system. Board staff manually checked every renewed appraiser and discovered an additional seven individuals who were audited. This reflects 10% of the licensee population. Documentation of the additional audits was provided to ASC staff.</p>	None	To strengthen the Program, Vermont should implement an effective policy and procedure to ensure in the future, the continuing education audit is completed within 60 days of the date the credential is issued, and ensure that all documentation is available to ASC staff during the Compliance Review.	During the next Review, ASC staff will pay particular attention to this area for compliance with Title XI, AQB Criteria and Policy Statement 10F.

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<b>Application Process Continued:</b>	X							
States must maintain sufficient documentation to support affidavit renewal and audit procedures and actions. (ASC Policy Statement 10F.)				At the time of the on-site Review, the list of licensees audited for continuing education and their corresponding files were not available. ASC Policy Managers were not notified in advance that the documentation was not available. The audit information was received via email from Program staff on November 5, 2010. ASC staff selected 10 continuing education renewal audit files for review. Of the 10 files selected for review, 3 files did not contain sufficient documentation to confirm that the continuing education hours had been completed. Program staff advised ASC staff that documentation was probably not kept.	On March 24, 2011, the Board reported that Program staff reviewed the 3 files and confirmed that the scanned documents emailed to ASC staff were missing pages. The additional documentation was provided to ASC staff.	None	To strengthen the Program, Vermont should implement an effective policy and procedure to ensure in the future, documentation used to validate experience claims are properly retained and available to ASC staff during the Compliance Review.	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10F.
<b>Reciprocity:</b>	X			No compliance issues noted.				
<b>Education:</b>	X			No compliance issues noted.				
<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.)				Vermont had 15 outstanding complaints, of which 5 (33%) were unresolved for more than one year. Of those 5, none fall under the exception for special documented circumstances.	On March 24, 2011, the Board informed ASC staff that, as of the March 2, 2011 Board meeting, all but one of the outstanding complaints over one year have been resolved and will be finalized at the May Board meeting.	None	To strengthen the Program, Vermont should ensure complaints of appraiser misconduct or wrongdoing are processed in a timely manner	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.

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<b>Enforcement Continued:</b>			X					
States must maintain relevant documentation to enable the ASC staff to understand the facts and determinations in the matter and the reasons for those determinations. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				<p>The enforcement files provide to ASC staff were not appropriately documented. The files did not include enough information to understand the basis of the case and the reasoning behind the resolution. However, Board staff provided supplemental information that summarized and supported each case.</p> <p>During the Review, ASC staff provided direction to the Board and their staff on what documentation should be included in an adequately documented enforcement file.</p> <p>One of the 18 enforcement files ASC staff selected for review could not be located.</p>	In an email on March 10, 2011, Board staff reported to ASC staff that the missing enforcement file was located. Board staff scanned and emailed the documentation to ASC staff.	None	To strengthen the Program, Vermont should implement an effective process to ensure that the complaint process is well documented, and that documentation is available to ASC staff during the on-site portion of the Compliance Review. "Well-documented" means that relevant documentation pertaining to a matter exists, and will enable readers to understand the facts and determinations in the matter and the reasons for those determinations.	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.