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Appraisal Subcommittee
Federal Financial Institutions Examination Council

December 8, 2015

Mr. Anthony Giardina, First Deputy Secretary of State
New York Department of State
P O Box 22001
Albany, NY 12201-2001

RE: ASC Compliance Review of New York's Appraiser Regulatory Program

Dear Mr. Giardina:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of New York's appraiser regulatory program (Program) on August 3-7, 2015, to determine the Program's compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended.

The ASC considered the preliminary results of the Review and the State's response to those results. The Program is given an ASC Finding of "Needs Improvement."

The ASC identified the following area of non-compliance:

- States must take appropriate action to suspend an appraiser's eligibility to perform appraisals in federally related transactions when it determines that the appraiser's continuing education does not meet AQB Criteria and notify the ASC as soon as practicable after taking such action for the appraiser's record on the National Registry to be updated.¹

ASC staff will confirm appropriate corrective actions have been taken through off-site monitoring and during the next Review. New York will remain on a two-year Review Cycle. The final ASC Compliance Review Report (Report) is attached.

This letter and the attached Report are public records and available on the ASC website. Please contact us if you have any questions about this Report.

Sincerely,



Arthur Lindo
Chairman

Attachment

cc: Mr. Charles Silva Fields, Deputy Secretary of State
Ms. Whitney A. Clark, Director, Division of Licensing Services

¹ 12 U.S.C. § 3347; Policy Statement 4 C

ASC Finding Descriptions

ASC Finding	Rating Criteria	Review Cycle*
Excellent	<ul style="list-style-type: none"> • State meets all Title XI mandates and complies with requirements of ASC Policy Statements • State maintains a strong regulatory Program • Very low risk of Program failure 	2-year
Good	<ul style="list-style-type: none"> • State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements • Deficiencies are minor in nature • State is adequately addressing deficiencies identified and correcting them in the normal course of business • State maintains an effective regulatory Program • Low risk of Program failure 	2-year
Needs Improvement	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program • State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies • State regulatory Program needs improvement • Moderate risk of Program failure 	2-year with additional monitoring
Not Satisfactory	<ul style="list-style-type: none"> • State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements • Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program • State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing • State regulatory Program has substantial deficiencies • Substantial risk of Program failure 	1-year
Poor ²	<ul style="list-style-type: none"> • State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements • Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program • State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies • High risk of Program failure 	Continuous monitoring

*Program history or nature of deficiency may warrant a more accelerated Review Cycle.

² An ASC Finding of "Poor" may result in significant consequences to the State. See Policy Statement 5, *Reciprocity*; see also Policy Statement 8, *Interim Sanctions*.

ASC Compliance Review Report

ASC Finding: Needs Improvement

Final Report Issue Date: December 8, 2015

New York Appraiser Regulatory Program (State)		
New York Board of Real Estate Appraisal (Board) / Decision Making	PM: V. Metcalf	ASC Compliance Review Date: August 3-7, 2015
Umbrella Agency: New York Department of State (Department)		Review Period: October 2013 to August 2015
	Number of State Credentialed Appraisers on National Registry: 3,993	Review Cycle: Two Year

Applicable Federal Citations	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required/Recommended State Actions	General Comments
	YES	NO	AC				
Statutes, Regulations, Policies and Procedures:			X				
States must have funding and staffing sufficient to carry out their Title XI-related duties. (12 U.S.C. § 3347; Policy Statement 1 B.)				The 9 member Board has 4 vacant positions and 3 members are serving on expired terms. The August 7, 2015, Board meeting did not have the required quorum of 5 members because only 3 members attended.	On November 5, 2015, the State explained that the Board's authority is limited to promulgating regulations and advising the Department as needed as a body or in subcommittees between official meetings. Since the Review, the entire Board met and received a new appointment. Department staff will work with appointing authorities to fill the 3 remaining vacancies and reappoint those with expired terms. Current members will continue to serve until reappointed or replaced.	None	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 1.
Temporary Practice:	X						
				No compliance issues noted.	N/A	None	None
National Registry:	X						
				No compliance issues noted.	N/A	None	None
Application Process:			X				
States may not accept an affidavit for continuing education claimed from applicants for reinstatement. (12 U.S.C. § 3347; Policy Statement 4 C.)				New York does not require appraisers reinstating a credential after a lapse to provide evidence of completion of continuing education.	On November 5, 2015, the State reported that it has modified its otherwise random continuing education audit procedures to include an audit of the continuing education claims of any appraiser who obtained a renewed credential in an untimely manner.	None	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 4.

ASC Compliance Review Report

ASC Finding: Needs Improvement

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New York Board of Real Estate Appraisal (Board) / Decision Making	PM: V. Metcalf	ASC Compliance Review Date: August 3-7, 2015	Review Period: October 2013 to August 2015
Umbrella Agency: New York Department of State (Department)		Number of State Credentialed Appraisers on National Registry: 3,993	Review Cycle: Two Year

Applicable Federal Citations	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required/Recommended State Actions	General Comments
	YES	NO	AC				
Application Process continued:			X				
States must ensure appraiser credential applications submitted for processing do not contain expired examinations or examination approvals as established by AQB Criteria. (12 U.S.C. § 3347; Policy Statement 4.)				AQB Criteria permits a new applicant not currently licensed or certified and in good standing in another jurisdiction up to 24 months, after approval by the State, to take and pass an AQB approved qualifying examination for the credential. New York authorizations to sit for the National Examination are valid indefinitely.	On November 5, 2015, the State reported that its staff will deny applications with information that exceeds the appropriate timeframes and will work with the Information Technology Office to develop system upgrades that add expiration dates on the examination admittance slips.	None	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 4.
Application Process continued:		X					
States must take appropriate action to suspend an appraiser's eligibility to perform appraisals in federally related transactions when it determines that the appraiser's continuing education does not meet AQB Criteria and notify the ASC as soon as practicable after taking such action for the appraiser's record on the National Registry to be updated. (12 U.S.C. § 3347; Policy Statement 4 C.)				The State does not track the status of the cases involving individuals who fail the continuing education audits, consequently some cases are not adjudicated timely.	On November 5, 2015, The State explained the delays in case dispositions were caused by staffing changes in the Office of Administrative Hearings. Its heavy case volume resulted in a backlog of cases waiting to be heard. The State made procedural changes to resolve cases more timely and will hire additional Administrative Law Judges.	Within 60 days of the date of the Report, the State must provide ASC staff a detailed account of the results of the CE audits conducted since October 2013, which includes: (a) a listing of all credentials audited, detailing any deficiencies; (b) the status of all credentials with identified deficiencies including the results of any hearings held; and (c) verification that all non-compliant individuals have been placed on inactive status on the National Registry.	Through off-site monitoring and during the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 4.
Reciprocity:	X						
				No compliance issues noted.	N/A	None	None
Education:	X						
				No compliance issues noted.	N/A	None	None

ASC Compliance Review Report

ASC Finding: Needs Improvement

Final Report Issue Date: December 8, 2015

New York Appraiser Regulatory Program (State)

New York Board of Real Estate Appraisal (Board) / Decision Making

PM: V. Metcalf

ASC Compliance Review Date: August 3-7, 2015

Review Period: October 2013 to August 2015

Umbrella Agency: New York Department of State (Department)

Number of State Credentialed Appraisers on National Registry: 3,993

Review Cycle: Two Year

Applicable Federal Citations	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required/Recommended State Actions	General Comments
	YES	NO	AC				
Enforcement:	X						
States must track all complaints on a complaint log containing the required information. (12 U.S.C. § 3347; Policy Statement 7 B.)				The State was unable to provide a complete log tracking all enforcement activities performed during the Review period. A complaint log must include: (1) Case number; (2) Name of respondent; (3) Actual date received; (4) Source of complaint; (5) Current status of the complaint; (6) Date closed; and (7) Method of disposition.	On November 5, 2015, the State reported it was not aware that the ASC policy had changed to specify required fields on the complaint log. ASC staff provided Department staff with the appropriate format, which the Department implemented.	None	The State's resolution addresses the concern.