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Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 14, 2016

Commissioner Ian Harlow
Bureau of Professional and Occupational Affairs
Department of State
One Penn Center
2601 North 3rd Street
Harrisburg, PA 17110

RE: ASC Compliance Review of Pennsylvania's Appraiser Regulatory Program

Dear Commissioner Harlow:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Pennsylvania appraiser regulatory program (Program) on May 10-12, 2016, 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 final ASC Compliance Review Report (Report) is attached.

The ASC identified the following areas of non-compliance:

- States must, at a minimum, adopt and/or implement all relevant AQB Criteria.¹
- States must take remedial action when more than ten percent of audited affidavits for continuing education credit claimed fail to meet minimum AQB Criteria.²
- States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date in the absence of special documented circumstances.³

ASC staff will confirm appropriate corrective actions have been taken in a Follow-up Review in approximately 12 months. Pennsylvania will remain on a two-year Review Cycle.

¹ 12 U.S.C. § 3345; 12 U.S.C. § 3347; Policy Statement 1 C, D.

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

³ 12 U.S.C. § 3347; Policy Statement 7 B.

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,

A handwritten signature in blue ink, appearing to read "Arthur Lindo".

Arthur Lindo
Chairman

Attachment

cc: Mr. D. Thomas Smith, Chair
Ms. Heidi Weirich, Board Administrator
Ms. Jacqueline Wolfgang, Board Counsel
Mr. Ray Michalowski, Senior Prosecutor

ASC Findings 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 ⁴ | <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.

⁴ 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: September 14, 2016

| | | | |
|---|---------------|---|---------------------------------------|
| Pennsylvania Appraiser Regulatory Program (State) | | | |
| State Board of Certified Real Estate Appraisers (Board) / Decision Making | PM: C. Brooks | ASC Compliance Review Date: May 10-12, 2016 | Review Period: May 2014 to May 2016 |
| Umbrella Agency: Department of State, Bureau of Professional and Occupational Affairs | | Number of State Credentialed Appraisers on National Registry: 3,247 | Review Cycle: Two Year with Follow-up |

| 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, at a minimum, adopt and/or implement all relevant AQB Criteria. (12 U.S.C. § 3345; 12 U.S.C. § 3347; Policy Statement 1 C, D.) | | | | <p>A review of the State's Statutes and Regulations revealed the following inconsistencies with the AQB Criteria regarding: (1) Trainees; (2) Supervisory appraisers; and (3) Qualifying education.</p> <p>AQB Criteria requires Trainees to: complete continuing education (CE) each year; complete qualifying education (QE) within 5 years prior to application; and complete a course specifically oriented to the requirements and responsibilities of Supervisory Appraisers and Trainee Appraisers. Pennsylvania's Statutes and Regulations do not include these requirements.</p> <p>AQB Criteria requires Supervisory appraisers to: not have been the subject of discipline affecting their ability to appraise for at least 3 years; hold a certification in the jurisdiction the trainee practices for at least 3 years; and complete a course specifically oriented to the requirements and responsibilities of Supervisory Appraisers and Trainee Appraisers. Pennsylvania's Statutes and Regulations do not include these requirements.</p> <p>AQB Criteria requires Certified credential applicants to hold a Bachelor's degree, and effective 1/1/15, does not allow for education "in lieu of" the degree. Pennsylvania regulations require Certified General applicants to hold a Bachelor's degree. However, Pennsylvania regulations only require Certified Residential applicants to hold an Associate degree and allows the degree requirement for both certified credential levels to be satisfied through the completion of specific college level courses "in lieu of" holding a degree.</p> <p>In addition, the State had difficulty in pursuing two cases involving applicants who failed to meet AQB Criteria because State laws were not in compliance.</p> | <p>On August 26, 2016, the State responded that House Bill 1270, which included the AQB Criteria requirement that Trainees complete CE, became law effective July 7, 2016.</p> <p>The State also advised that it is amending its regulations to adopt AQB Criteria by reference, thereby bringing the remaining issues into compliance.</p> | <p>The State must continue the process to amend its regulations to bring them into compliance with AQB Criteria, and provide the ASC staff with quarterly updates on the progress of the amendments.</p> | <p>Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 1.</p> |

| ASC Compliance Review Report | | | | | | ASC Finding: Needs Improvement | |
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| 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 continued: | X | | | | | | |
| States must have a policy for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI. (12 U.S.C. § 3351; Policy Statement 5.) | | | | Title XI requires a reciprocal credential be issued when the applicant holds a valid credential from a State whose program is in compliance with Title XI and whose credentialing requirements meet or exceed the requirements of the State. Pennsylvania's statute does not comply with Title XI. | On August 26, 2016, the State responded that legislation amending the statute to bring it into compliance with Title XI became law, effective July 7, 2016. | None | The State's resolution addresses the concern. |
| Temporary Practice: | | | X | | | | |
| States must issue temporary practice permits within five business days of receipt of a completed application, or notify the applicant and document the file as to the circumstances justifying delay or other action. (12 U.S.C. § 3351; Policy Statement 5.) | | | | Pennsylvania failed to process requests for temporary practice permits within 5 business days of receipt of a completed application. | On August 26, 2016, the State reported that the temporary practice applications in question had discrepancies and correlating requests for additional information from the State which were not included in the application files. The State has changed its procedures to include copies of all documentation in the application files. | The State should monitor the new procedures for temporary practice permit processing to ensure compliance with Title XI and ASC Policy Statement 2. | During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 2. |
| Temporary Practice continued: | X | | | | | | |
| States must recognize on a temporary basis appraiser credentials issued by another State if the property to be appraised is part of a federally related transaction. (12 U.S.C. § 3351; Policy Statement 2.) | | | | Pennsylvania does not offer temporary practice credentials to the licensed appraiser classification. | On August 26, 2016, the State responded that the temporary practice application was updated to extend temporary practice credentials to the licensed appraiser classification. | None | The State's resolution addresses the concern. |
| National Registry: | X | | | | | | |
| | | | | No compliance issues noted. | N/A | None | None |

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| Umbrella Agency: Department of State, Bureau of Professional and Occupational Affairs | | | | Number of State Credentialed Appraisers on National Registry: 3,247 | | Review Cycle: Two Year with Follow-up | |
| 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: | | X | | | | | |
| States must take remedial action when more than ten percent of audited affidavits for continuing education credit claimed fail to meet minimum AQB Criteria. (12 U.S.C. § 3347; Policy Statement 4 C.) | | | | The 2015 Pennsylvania audit of affidavits for CE claimed resulted in a 12% failure rate. | On August 26, 2016, the State reported it will increase the percentage of licensees audited from 2% to 5%; include in the Board's next newsletter an article regarding CE requirements and the licensee's responsibility to verify courses are either AQB or Board approved courses; and update the education provider/course approval application to include a statement indicating courses expire 3 years from the date of approval. The State also will consider software that would permit licensees to upload course completion certificates. | Within 60 days of the date of this Report, the State must provide ASC staff a copy of the newsletter article outlining CE requirements, the revised course approval application and an update on the efforts to obtain software allowing licensees to upload course completion certificates. | Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 4. |
| Reciprocity: | X | | | | | | |
| States must have a policy for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI. (12 U.S.C. § 3351; Policy Statement 5.) | | | | The State's statutory authority is not consistent with the State's practice or federal requirements. However, in practice, it appears Pennsylvania complies with Title XI concerning reciprocity. | On August 26, 2016, the State responded that legislation amending the statute to bring it into compliance with Title XI became law on July 7, 2016. | None | The State's resolution addresses the concern. |
| Education: | | | X | | | | |
| States must ensure that appraiser education courses are consistent with AQB Criteria. (12 U.S.C. § 3347; Policy Statement 6 A.) | | | | Pennsylvania approved education courses with content that appeared to be inconsistent with AQB Criteria for CE. These were non-real property-related courses, and professional organization ethics courses. | On August 26, 2016, the State responded that the Board performed a review of all CE courses approved from May 1, 2014, through May 12, 2016, and identified courses inconsistent with AQB Criteria. The Board is rescinding the approvals in those courses and is giving providers 30 days to respond to the Board's determination. Additionally, the Board appointed 3 professional Board members to serve on a CE Committee which will review all of the courses to ensure future compliance. | None | During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 6. |

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| 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 resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date in the absence of special documented circumstances. (12 U.S.C. § 3347; Policy Statement 7 B.) | | | | <p>The State had 152 outstanding complaints of which 34 were unresolved for more than 1 year and 33 were unresolved for more than 2 years. Of the aged complaints, 14 were removed under the exemption for special documented circumstances.</p> <p>Complaint investigation and resolution has been cited in every Compliance Review conducted for the Program since 2000.</p> | <p>On August 26, 2016, the State advised that it has contracted with an additional appraiser reviewer and will be increasing the prosecutorial resources assigned to handling appraiser and AMC cases by 25% to reduce the backlog and improve efficiency. Additionally, the State is developing a "conditional dismissal" or "private remediation" program and contracting with an experienced appraisal reviewer to implement an internal mediation program for cases that do not qualify for conditional dismissal/private remediation. The State also reported on its efforts to add additional qualified appraisal reviewers to the State's current roster of contracted reviewers.</p> | <p>The State must continue to develop and monitor its revised processes to ensure timely processing of complaints to reduce the backlog of aged complaints, and to ensure that the complaints of appraiser misconduct or wrongdoing are resolved on a timely basis as required by ASC Policy Statement 7.</p> <p>The State must continue to submit complaint logs and provide updates on the progress of its plan to reduce the backlog of aged complaints to ASC staff quarterly. Staff will analyze each log. If progress is not made, the ASC may place additional requirements upon the State.</p> | <p>Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 7.</p> |