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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 19, 2005

Carol J. Leighton, Administrator
Maine Board of Real Estate Appraisers
Department of Professional and Financial Regulation
#35 State House Station
Augusta, ME 04333

Dear Ms. Leighton:

Thank you for your November 15, 2005 letter responding to the Appraisal Subcommittee's ("ASC") September 16, 2005 field review letter. While we are pleased that Maine's Real Estate Appraiser Board ("Board") and the Department of Professional and Financial Regulation ("Department") have taken steps to address our concerns, those steps, as discussed below, need further development.

- **The Board issued transitional licenses that are not differentiated from licenses or certifications that authorize holders to perform appraisals in federally related transactions.**

In our September 16, 2005 field review letter, we noted that Maine issued transitional license credentials in 1991-1992 to individuals who did not meet Appraiser Qualifications Board ("AQB") criteria regarding education, experience, and examination. In our letter, we noted that Maine failed to conform to two ASC Policy Statements regarding these credentials.

First, ASC Policy Statement 2 B states that the ASC believes that transitional licensing is no longer necessary because practicing appraisers have had ample time and opportunity to meet AQB and State requirements for experience and education. As a result, we recommended that Maine not extend or renew previously issued transitional licenses.

Second, Maine failed to comply with ASC Policy Statement 8 A that provides that if a State issues appraiser credentials that do not authorize the appraiser to appraise properties in connection with federally related transactions, then the credentialing State agency must ensure that any potential user of that appraiser's services is aware that the appraiser's certificate or license is limited to performing appraisals in connection with non-federally related transactions. The State agency must place a conspicuous notice directly on the face of any evidence of the appraiser's authority to appraise stating, "Not Eligible to Appraise Federally Related Transactions."

To address these concerns, we directed the Board and/or Department to:

1. Recall as soon as possible the paper "transitional licenses" and reissue them with a conspicuous overstamp stating, "Not Eligible to Appraise Federally Related Transactions"; and

2. Disclose prominently on the Board/Department's Web site that these appraisers are not eligible to perform appraisals in connection with federally related transactions.

In your November 15th response, you stated that the Board has recalled the paper licenses and has reissued them. The new licenses bear the overstamp, "NOT ELIGIBLE TO BE LISTED ON THE NATIONAL REGISTRY OF THE APPRAISAL SUBCOMMITTEE." In addition, you have instructed your "IT staff" to add this statement to each affected appraiser's listing on your Web site. At the time of your response, that Web site change had not yet been accomplished.

While we appreciate your prompt actions to address this situation, the Board's actions did not go far enough. While the overstamp wording that you have chosen will put users of appraisal services on notice that these transitional appraisers are different from licensed appraisers who are listed on our National Registry, the wording does not accomplish what is required in our Policy Statement. That Policy Statement requires that users be directly informed that holders of such credentials are not legally eligible to perform appraisals in federally related transactions. Users might not understand that a direct consequence of not being listed on the National Registry is the legal incapacity to perform appraisals in connection with federally related transactions.

To address this concern, the Board and Department need to:

1. Within 30 days of receiving this letter, again recall the paper "transitional licenses" bearing the incorrect overstamp and reissue them with a conspicuous overstamp stating, "Not Eligible to Appraise Federally Related Transactions";
2. Within 30 days of receiving this letter, disclose prominently on the Board/Department's Web site that these appraisers are not eligible to perform appraisals in connection with federally related transactions; and
3. Within 60 days of receiving this letter, provide ASC staff with a sample copy of the overstamped transitional license.

Finally, in your letter, you stated that the Board contacted the Attorney General's office regarding State law authority for the continued renewal of these transitional credentials. Please promptly advise us about the results of the Attorney General's review.

- **Several sections of Maine's regulations are inconsistent with AQB criteria.**

In our field review letter, we noted that Maine's regulations are inconsistent with AQB criteria in two ways. The first inconsistency related to the failure of the regulations to require certified appraisers to take the 15-hour National USPAP Course or its equivalent and the 7-hour National USPAP Update Course or its equivalent. Regarding this inconsistency, your response stated that the Board has filed a draft legislative proposal with the legislative office that incorporates these changes and, at the same time, would adopt the 2008 AQB criteria changes. We do not know when, or if, that legislation might be adopted and, if adopted, when it might become effective. In any event, the changes identified in our field review letter relate to the AQB certification criteria as they exist currently. That is why we directed the Board to make conforming changes to its regulations. It appears that the Board has the authority to initiate the necessary rulemaking proceedings to incorporate the AQB's 2003 requirements regarding the 15-hour National USPAP Course and the 7-hour National USPAP Update Course. Please inform us if our understanding of the Board's authority is inaccurate. Otherwise, we expect that the

Board will initiate the necessary rulemaking promptly. Please keep us informed about your progress in this matter and provide us with a copy of the proposed regulatory amendments once they are issued.

The second inconsistency related to Maine's regulations for continuing education. Those regulations state, "[a] course may be presented by traditional classroom method or distance education, as defined by the Board." The Board, however, has not defined any education methods as allowed by the regulation. In practice, the Board has followed the AQB's distance education certification criteria. We directed the Board to amend its regulations as necessary to eliminate any difference between the regulations and actual practice.

In your response, you noted that your education regulations will be amended after the legislature adopts the draft proposal relating to the 2008 AQB criteria changes. The same considerations noted above in connection with the National USPAP Courses also apply here. Please initiate rulemaking proceedings as soon as possible to conform your regulations to your current practice respecting distance education. Again, please keep us informed about your progress in this matter and provide us with a copy of the proposed regulatory amendments once they are issued.

Finally, we have two comments regarding the 2008 AQB criteria changes in the draft legislative proposal. In general, the changes are acceptable. We note, however, that at numerous places, the proposal incorrectly references the ASC, rather than the AQB. The AQB, and not the ASC, approves the required core curriculum and issues or approves uniform appraiser examinations.

This letter and any other correspondence between you and the ASC regarding this field review are now publicly available on our Web site.

Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director