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Appraisal Subcommittee
Federal Financial Institutions Examination Council

February 27, 2008

Mr. Joseph C. Traynor, Chairperson
Indiana Real Estate Appraiser Licensure
and Certification Board
Indiana Professional Licensing Agency
402 W. Washington, Room W072
Indianapolis, IN 46204

Dear Mr. Traynor:

Thank you for your January 7, 2008 letter responding to the Appraisal Subcommittee's ("ASC") November 13, 2007 field review letter. In your response, you addressed the two concerns discussed in our letter.

- **Indiana approved continuing education courses that appeared inconsistent with Appraiser Qualifications Board ("AQB") criteria and failed to document the continuing education course approval process.**

During our December 2006 field review, ASC staff reviewed continuing education audit files for certified appraisers from the two-year renewal cycle that ended December 31, 2005. Twelve files contained continuing education course certificates that appeared inconsistent with AQB criteria. Those courses apparently were used to meet the continuing education requirements for credential renewal. These 12 courses were:

1. National Association of REALTORS[®] Code of Ethics;
2. Premier School of Real Estate Code of Ethics and Professional Standards;
3. Metropolitan Indianapolis Board of REALTORS[®] Code of Ethics;
4. Fort Wayne Area Association of REALTORS[®] Code of Ethics;
5. License and Escrow Law;
6. Agency Law;
7. Multi-Generational Marketing;
8. Innovative Marketing;
9. Click & Close: Working with the e-buyer;
10. Listing Contract & Related Documents;
11. Settlement Procedures; and
12. Effective Negotiations

During the December 2006 review, Indiana Professional Licensing Agency ("IPLA") staff was unable to locate and/or provide any documentation for these 12 courses or the decision-making process supporting approval of the courses. The ASC's March 14, 2007 field review letter directed the Board and/or IPLA to:

1. Obtain appropriate documentation for each of the 12 courses identified above;

2. Review the documentation to determine whether each course, or portion of a course, conformed to AQB continuing education criteria;
3. Submit to ASC staff a listing of the 12 courses and the State's determination regarding AQB conformance;
4. Rescind approval for any course that failed to conform to AQB criteria;
5. Refrain from approving such courses in the future; and
6. Maintain copies of all documents supporting Board decisions to approve or disapprove educational courses.

If the Board rescinded approval of any of the courses due to a determination that the course failed to meet AQB criteria, the Board and/or IPLA were to:

7. By May 31, 2007, identify all persons issued renewed credentials on or after January 1, 2006, who were given credit for a disallowed course;
8. By June 15, 2007, review the file for each appraiser identified in step seven and determine whether the appraiser had sufficient continuing education, other than the disallowed courses, to support renewal of his or her credential;
9. By June 30, 2007, advise in writing each appraiser who did not have sufficient continuing education on file to provide documentation of acceptable continuing education or obtain the necessary continuing education within 30 days. (Note that continuing education obtained for this purpose cannot be used to support renewal in 2008;) and
10. By July 31, 2007, take appropriate disciplinary actions against any appraiser who failed to document conformance to AQB criteria:
 - a. For a certified appraiser, promptly downgrade the appraiser to a non-certified credential and report the credential as non-AQB compliant in National Registry data submissions; or
 - b. Recall the certified appraiser credential and reissue it over stamped with the phrase, "Not Eligible to Appraise Federally Related Transactions." Appraisers choosing over stamped credentials would be removed from the National Registry; and
 - c. For a licensed appraiser, report the credential as non-AQB compliant in National Registry data submissions.

In a May 15, 2007 letter, the IPLA and the Board responded, stated that their acceptance of these continuing education courses was consistent with State law and therefore appropriate. In our June 25th letter responding to the your May 15th letter, we again instructed the Board and IPLA to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI") Title and AQB continuing education certification requirements by taking the corrective steps set forth in our March 14th field review letter and

listed as steps one through ten above. We informed the State that, while certified appraiser credentials renewed on the basis of unacceptable continuing education courses might be compliant with State law, appraisers holding those credentials could not legally perform appraisals in connection with federally related transactions and certain real estate related financial transactions under Federal law. We also advised IPLA and the Board that their continued approval of such courses would put Indiana's entire appraiser regulatory program in jeopardy under Title XI.

During our October 2007 field review, we found that Indiana had complied only with the first of the ten required curative steps. IPLA staff obtained documentation for each of the 12 identified courses.

In our November 15th letter, we again instructed the Board and IPLA to comply with Title XI and AQB continuing education certification requirements by taking the corrective steps set forth in our March 14, 2007 field review letter within the following time frames. The Board and IPLA needed to:

1. Complete steps two through six above within 15 days of receipt of this letter;
2. Complete step seven within 60 days of receipt of this letter;
3. Complete step eight within 75 days of receipt of this letter;
4. Complete step nine within 90 days of receipt of this letter; and
5. Complete step ten within 120 days of receipt of this letter.

Our November letter further stated that ASC staff would return within six months to review the corrective actions taken by the Board and IPLA. Should ASC staff find during this follow-up field review that the State failed to make sufficient progress towards remedying this situation, we informed you that the ASC will consider whether to initiate a non-recognition proceeding against the State under § 1118 of Title XI.

In your most recent response letter, you stated that you have completed your review of the course materials and have determined that all of the courses complied with the AQB's certification criteria. While we understand the Board's position that these real estate courses might contain some beneficial information for appraisers, we believe that those courses clearly are unacceptable under AQB criteria.

To address this situation, the Board and/or IPLA need to submit a written letter to the AQB *as soon as possible* requesting whether the questionable courses would be acceptable for continuing education purposes under the AQB's certification criteria. Please submit with your letter request any underlying course documentation. Please forward to us a dated copy of your letter to the AQB. We will respect the AQB's decision on this matter.

If you choose not to send this letter request to the AQB or the AQB determines that the courses in question are unacceptable, the Board and IPLA then will need to take steps four through ten within the timeframes stated above.

ASC staff will return May 8, 2008 to Indiana to review your progress towards alleviating this situation. Should ASC staff find during this follow-up field review that the State failed to make

sufficient progress towards remedying this deficiency, the ASC will consider whether to initiate a non-recognition proceeding against the State under § 1118 of Title XI.

- **Board regulations did not conform to the AQB's continuing education criteria.**

During our October 2007 field review, we found that the Board's regulations allowed an appraiser to place his or her credential into Inactive status for an unlimited time period. The regulations required that, to reactivate a license or certification from Inactive to Active status, the appraiser must take 28 hours of continuing education, including the most recent edition of the 7-hour National USPAP Update Course.

In September 2005, the AQB adopted an Interpretation regarding waivers and deferrals of continuing education. That Interpretation provides that, prior to reactivating an Inactive credential, the credential holder must complete *all* continuing education that would have been required had he or she not been Inactive, including the most recent edition of the 7-hour National USPAP Update Course.

We notified Indiana about this inconsistency with AQB criteria in our March 14, 2007 field review letter. In IPLA's May 21st response letter, IPLA stated that the rule promulgation process had been initiated to correct this inconsistency. During our October 2007 field review, however, we learned that the Board never began the rulemaking process; the Board still was in the process of drafting the needed rule amendments. You provided us a copy of that draft language. IPLA expected that a hearing on the proposed rule change would occur in January 2008.

During our October 2007 field review, we also found that the Board's regulations failed to comply with another AQB Interpretation. The regulations stated that a certified appraiser initially certified in the first year of a two year renewal cycle must complete 14 hours of continuing education, and a certified appraiser initially certified in the second year of a two year renewal cycle shall not be required to obtain continuing education. Effective January 1, 2007, the AQB adopted an Interpretation regarding partial year continuing education cycles. That Interpretation provides that, for continuing education cycle periods of 185 days or more, 14 hours of continuing education is required, and, for continuing education cycles of less than 185 days, continuing education is not required.

Because Indiana's renewal cycle was January 1, 2006, through June 30, 2008, no certified appraisers had the opportunity to renew their credentials under the problematic regulation. Nevertheless, the Board and IPLA needed to amend the regulations as soon as possible to conform to the AQB Interpretations.

In your January 7th letter, you explained that, on June 20, 2007, you published a "Notice of Intent to Adopt a Rule" regarding these curative rule change. And, on November 30, 2007, you submitted the proposed rules to the *Indiana Register*. A public hearing regarding these proposed rule changes is scheduled for January 23, 2008. Please keep ASC staff informed about the status of your rulemaking proceedings and provide us a copy of the final regulations.

Our field review letter and your response are now public information and will become publicly available on our Web site.

Please contact us if you have any questions.

Sincerely,

Marc L. Weinberg
Acting Executive Director
and General Counsel

cc: Nicholas Rhoad, Board Director, Indiana Real Estate Appraiser Licensure and Certification Board
Wade Lowhorn, Deputy Director, Indiana Professional Licensing Agency
Frances L. Kelly, Executive Director, Indiana Professional Licensing Agency
Barbara McNutt, Chief Legal Counsel, Indiana Professional Licensing Agency