



## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS19-04]

### Appraisal Subcommittee; Notice of Received Request for a Temporary Waiver

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC).

**ACTION:** Notice of received request for a temporary waiver; request for comment.

**SUMMARY:** The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) has received a request for a temporary waiver of appraiser certification or licensing requirements pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act, and the rules promulgated thereunder. The ASC is requesting comment (including written data, views and arguments) on the received request.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Commenters are encouraged to submit comments (including written data, views and arguments) by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS19-04, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.

- *E-Mail:* [webmaster@asc.gov](mailto:webmaster@asc.gov). Include the docket number in the subject line of the message.
- *Fax:* (202) 289-4101. Include docket number on fax cover sheet.
- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1325 G Street NW, Suite 500, Washington, DC 20005.
- *Hand Delivery/Courier:* 1325 G Street NW, Suite 500, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the Federal eRulemaking ([regulations.gov](http://regulations.gov)) website without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC's website at <https://www.asc.gov> (follow link in "What's New") as submitted, unless modified for technical reasons.

You may review comments by any of the following methods:

- *Viewing Comments Electronically:* Go to <https://www.regulations.gov>. Enter "Docket ID AS19-04" in the Search box and click "Search." Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov,

including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- Viewing Comments Personally: You may personally inspect comments at the ASC office, 1325 G Street NW, Suite 500, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595-7578.

#### **FOR FURTHER INFORMATION CONTACT:**

James R. Park, Executive Director, at (202) 595-7575, or Alice M. Ritter, General Counsel, at (202) 595-7577, Appraisal Subcommittee, 1325 G Street NW, Suite 500, Washington, DC 20005.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI)<sup>1</sup>, established the ASC.<sup>2</sup> The purpose of Title XI is “to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”<sup>3</sup>

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<sup>1</sup> Pub. L. 101-73, 103 Stat. 511 (1989), as amended by Pub. L. 102-233, 105 Stat. 1761 (1991), Pub. L. 102-242, 105 Stat. 2236 (1991) and Pub. L. 111-203, 124 Stat. 1376 (2010).

<sup>2</sup> The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System [Board], Consumer Financial Protection Bureau [CFPB], Federal Deposit Insurance Corporation [FDIC], Office of the Comptroller of the Currency [OCC], and National Credit Union Administration [NCUA]). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

<sup>3</sup> Title XI § 1101, 12 U.S.C. 3331.

Title XI requires the use of State licensed or certified appraisers in federally related transactions.<sup>4</sup> Section 1119(b) of Title XI, 12 U.S.C. 3348(b), authorizes the ASC to waive, on a temporary basis and with approval of the FFIEC, any certification or licensing requirement relative to certifying or licensing individuals to perform appraisals under Title XI in a State or geographic political subdivisions of a State upon a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions leading to significant delays in the performance of such appraisals. The ASC has issued procedures<sup>5</sup> governing the processing of temporary waiver requests. Consistent with 12 CFR 1102.4, the ASC is publishing this notice in the *Federal Register* requesting comment on the request for a proposed temporary waiver. Interested persons have 30 calendar days from publication of the Federal Register notice to submit written data, views, and arguments. Within 15 days of the close of the 30-day comment period, the ASC, by order, will grant or deny a waiver, in whole or in part, and upon specified terms or conditions, including provisions for waiver termination. If the ASC approves any or all of the request, it is subject to approval by the FFIEC. The ASC's order granting or denying the waiver shall respond to comments received and shall provide reasons for the ASC's finding. The order shall be published promptly in the *Federal Register*, though in the case of an order granting a waiver, only after approval by the FFIEC.

## **II. Request for Temporary Waiver; Received Request**

On August 1, 2018, a letter requesting consideration of a temporary waiver was submitted to the ASC by Governor Doug Burgum, State of North Dakota, the North Dakota Department of

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<sup>4</sup> 12 U.S.C. 3343. "Federally related transaction" refers to any real estate related financial transaction which: a) a federal financial institutions regulatory agency engages in, contracts for, or regulates; and b) requires the services of an appraiser. Title XI § 1121 (4), 12 U.S.C. 3350.

<sup>5</sup> 12 CFR part 1102, subpart A.

Financial Institutions, and the North Dakota Bankers Association (collectively, the Requester). On September 7, 2018, ASC staff replied by letter to the Requester, in which ASC staff described the information required to file a completed waiver request pursuant to 12 CFR 1102.2 and 1102.3. The Requester submitted additional information in a letter dated April 10, 2019, in response to the ASC's September 7, 2018 letter. On April 15, 2019, the ASC convened a Special Meeting and determined to publish a notice for comment on the request for temporary waiver in the *Federal Register*. The request seeks a waiver of appraiser credentialing requirements for appraisals for federally related transactions under \$500,000 for 1-to-4 family residential real estate transactions and under \$1,000,000 for agricultural and commercial real estate transactions throughout the State of North Dakota for a period of not less than five years.

Pursuant to 12 CFR 1102.4, the ASC is publishing a notice respecting the received request to give interested persons 30 days to comment, including submission of written data, views and arguments.

You may view the received request by any of the following methods:

- Viewing Received Request Electronically: Go to <https://www.asc.gov>. In the "What's New" box on the home page, a link is provided to view the received request and supporting documentation.
- Viewing Received Request Personally: You may personally inspect the received request and supporting documentation at the ASC office, 1325 G Street NW, Suite 500, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595-7578.

### **III. Request for Comment**

The ASC seeks comment on all aspects of the received request, including submission of written data, views and arguments. In addition, the ASC requests comment on the following:

**Question 1.** The ASC requests comment on whether there is a scarcity of certified or licensed appraisers available to perform appraisals for each of the following types of federally related transactions in North Dakota, or in any geographical political subdivision of North Dakota, including supporting data:

- i. 1-to-4 family residential transactions above \$250,000 and below \$500,000; or
- ii. agricultural and commercial real estate transactions above \$500,000 and below \$1 million.

**Question 2.** The ASC requests comment on whether there are significant delays in the performance of appraisals in North Dakota, or in any geographical political subdivision of North Dakota, including supporting data such as the average length of time between the date an appraisal is ordered and the delivery date, for federally related transactions that are:

- i. 1-to-4 family residential transactions above \$250,000 and below \$500,000; or
- ii. agricultural and commercial real estate transactions above \$500,000 and below \$1 million.

**Question 3.** The ASC requests comment, including supporting data, on factors that may be leading to significant delay in the performance of appraisals in connection with federally related transactions in North Dakota, and specifically whether scarcity of appraisers is leading to such significant delay, for:

- i. residential appraisal reports; or
- ii. agricultural and commercial appraisal reports.

**Question 4.** The ASC requests comment, including supporting rationale, on appropriate scope, terms, or conditions of any temporary waiver, should it find that such a waiver is warranted, including whether the requested 5-year duration of a waiver would be appropriate, types of federally related transactions that any waiver should cover, dollar limits for any transactions covered by a waiver, or whether the waiver should be limited to any particular area or geography.

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By the Appraisal Subcommittee,

Dated: May 24, 2019.

James R. Park,  
Executive Director.

Billing Code 6700-0001

[FR Doc. 2019-11282 Filed: 5/29/2019 8:45 am; Publication Date: 5/30/2019]