

March 14, 2022

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Re: Appraisal Subcommittee; Appraiser Regulation; Temporary Waiver Requests, Docket No. AS22-01

The undersigned professional appraiser organizations appreciate the opportunity to comment on the above-captioned proposed rule. The temporary waiver request provision has created a great deal of confusion for appraisers, lenders, and consumers. We believe Congress intended this provision to be – literally – temporary in nature to support the implementation of the appraiser certification and licensing requirements enacted by Congress in 1989. In recent years, the ASC offered the temporary waiver request as a form of “regulatory relief” to industry participants, but in doing so, has created a great deal of confusion in the marketplace. While we generally support the proposed actions the Appraisal Subcommittee (ASC) wishes to take regarding the process for considering temporary waiver requests, we are concerned about unintended negative consequences and continued misunderstanding regarding the nature of relief provided through the grant of a waiver.

Among documentation to request a temporary waiver, proposed rules 1102.3(b) and 1102.4(b) require reporting “the extent of the delays *anticipated* or experienced in the performance of appraisals by certified or licensed appraisers (including supporting documentation, statistical or otherwise verifiable) (emphasis added).” While verifiable data should be at the forefront of any waiver request, granting waivers based solely on “anticipated delays” is troubling.

At a minimum, to avoid specious waiver requests, we ask the ASC to more clearly define the nature and amount of evidence required to support the grant of a temporary waiver solely based on “anticipated delays”, including that evidence must be more than general appraiser population trends or mortgage origination data. For example, is the reason an entity is requesting a temporary waiver because appraisers were offered dwindling fees in their market, and therefore not interested in accepting the appraisal assignment? Put differently, a request for temporary waiver solely based on “anticipated delays” must use clear, convincing, and specific evidence.

More broadly, it seems the ASC is mixing the economic concepts of shortage with scarcity. A *scarcity* of appraisers would be demonstrated by whether there is a decline in the number of credential appraisals and a lack of new applicants, while a *shortage* of appraisers would mean there are credentialed appraiser, but there are not enough available to prevent from longer appraisal turnaround times than lenders would prefer. Granting appraisal waivers entirely on the assumption of “anticipated delays” absent supporting evidence of this quality and nature would not only harm consumers but undermine trust in the appraisal profession and its regulatory structures. While waivers address appraiser scarcity, it is important for ASC to remind potential applicants for relief that the overall impact of waivers is limited in scope as they only pertain to the use of appraisers in connection with federally-related transactions (FRT). A waiver does not remove the requirement to obtain an appraisal in connection with an FRT, and in many cases mortgage transactions are guided by the underwriting requirements of an entity who is not covered under the definition of an FRT.

Using the example of North Dakota, you must review how much relief was granted by the appraisal waiver. According to Zillow, the typical home values in North Dakota are \$259,960. For a waiver to be required, the transaction must be valued over \$400,000 dollars, not sold or contemplated for sale to a government-sponsored enterprise such as Fannie Mae or Freddie Mac, and not part of a federal loan guarantee program such as an FHA loan. In short, while relief was granted to North Dakota, the practical impact of such relief was likely minimal at best. Applicants should fully understand the contours of available relief before engaging in a time and resource intensive application process.

Moreover, the ASC should require that states exhaust every available option to rectify the appraiser shortage before requesting a waiver, such as temporary practice permits or reciprocal licensing. It is critical to the safety and soundness of the housing finance sector that appraisers are still part of the process in preventing risk to lenders and consumers.

Lastly, in reviewing the Temporary Waiver Flow Chart – For Notice of Proposed Rulemaking, the ASC should afford great deference to the state appraisal agency when they decide not to proceed with a waiver request. The flow chart indicates that ASC can move forward with a waiver even if the state appraisal agency declines the petition. More than any other agency or group, state appraisal agencies understand the appraisal issues happening within their jurisdiction. The ASC must have clear and convincing evidence if it is to contravene the judgment of those closest to the issues and be mindful of the message sent to the state appraisal agency where their determinations are overruled by the ASC.

Further, the chart indicates that the ASC can entirely circumvent input from a state appraisal agency and proceed with waiver requests from a third party. The ASC should exercise extreme caution when and if a petition is considered in these circumstances. While third parties can petition the ASC for a waiver, the State Appraisal Board should always be solicited for input on appraisal practices in their state.

If you have any questions or wish to discuss our views further please contact the individuals listed below:

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