

January 5, 2018

Mr. James R. Park
Executive Director
Appraisal Subcommittee
1401 H Street, N.W., Suite 760
Washington, D.C. 20005

Via Electronic Mail to jim@asc.gov

Re: Temporary Waiver Request of City Bank & Trust Company

Dear Mr. Park:

The undersigned appraiser is aware that the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) received a request from City Bank & Trust Company dated November 30, 2017 for a temporary waiver of certain requirements to utilize a certified appraiser under Title XI of FIRREA. This request is submitted by TriStar pursuant to 12 U.S.C. 3348(b). The bank does not specify the time for the temporary waiver. The bank also, states that, "Speaking for our bank in particular, we believe we have staff in the bank with lengthy experience in knowing our community. *They have good understanding of our local market, develop and document values and trends on an ongoing basis and are competent to produce evaluations and appraisal sufficient in nature to assure reliable valuation of real properties*". *The pervious statement, is stating they would like unlicensed individuals to perform appraisals, and those are also employees of said bank.*

The purpose of this letter is to strongly urge the ASC to consider the request with the utmost transparency and opportunity to gather market participant information. Specifically, I believe all correspondence between the ASC and City Bank & Trust Company should be forwarded promptly to the Oklahoma Real Estate Appraiser Commission, per the requirements of 12 CFR 1103.2. Such correspondence, particularly any supplemental information provided by City Bank & Trust Company, should not be treated as private correspondence, but rather as part of the Bank's waiver request, as it is essential to evaluating whether the request satisfies the requirements established by the ASC.

Additionally, I urge the ASC hold a face-to-face meeting with proper notice published in the Federal Register where it is considering whether to exercise its authority to initiate a temporary waiver procedure. The ASC can hold emergency meetings without such notice and via conference call, but the potential precedent-setting nature of this request and its potential impact on safe and sound lending requires full and active in-person participation by the members of the ASC.

Based strictly on the partial information included in TriStar's November 20, 2017 letter to the ASC, the request does not appear to follow the regulations adopted by the FFIEC and ASC regarding the receipt, processing and consideration of temporary waiver requests (12 CFR, Part 1102, Subsection A).

Section 1102.2, “Requirements for Requests” states that, “A request will not be deemed received by the ASC unless it *fully and accurately* [emphasis added] sets out:

- (b) The requirement or requirements of State law from which relief is being sought;
- (c) A description of all significant problems currently being encountered in efforts to comply with title XI;
- (d) The nature of the scarcity of certified or licensed appraisers (including supporting documentation);
- (e) The extent of the delays anticipated or experienced in obtaining the services of certified or licensed appraisers (including supporting documentation);
- (f) The reasons why the requester believes that the requirement or requirements are causing the scarcity of certified or licensed appraisers and the service delays;”

While the City Bank & Trust Company waiver request includes anecdotal information related to their difficulty in obtaining appraisals, it does not “fully and accurately” set out and provide the information required by subsections (b) through (f) of Section 1102.2. The request does not describe all significant problems being encountered by City Bank & Trust Company, the nature of the scarcity of appraisers, nor the full extent of the delays anticipated or experienced in obtaining the services of appraisers. Most importantly, the waiver request does not include any “supporting documentation” regarding the alleged difficulties in obtaining appraisals and evaluations being incurred by TriStar as is required by subsections (d) and (e).

Further, City Bank & Trust Company’s request includes requests that fall outside of the authority of the ASC. Specifically, the TriStar request appears to be for a one-year waiver from FIRREA’s requirements to obtain a written, USPAP-compliant appraisal. TriStar is requesting to utilize estimated market values that are not developed or reported as an appraisal. However, such a request could only be considered by a federal financial institution regulatory agency. Federal law limits the ability of the ASC only to grant a temporary waiver from “any requirement relating to certification or licensing of a person to perform *appraisals*” (12 U.S.C. 3348) [emphasis added]. If the ASC were to grant a temporary waiver from these requirements, TriStar would still be required to obtain written, USPAP-compliant appraisals when required by federal law, albeit those appraisals would be provided to TriStar by “individuals” who have not fully satisfied the state requirements to become a state-licensed or state-certified appraiser. Not obtaining appraisals, and obtaining appraisals from service providers that have not satisfied the minimum qualification criteria, are two entirely different requests.

In sum, in evaluating the request, I urge the ASC to conduct a fully transparent process that includes the entirety of TriStar’s request and opportunity for market participant and stakeholder feedback. Based strictly on the November 30, 2017 letter, City Bank & Trust Company’s request does not appear to satisfy the requirements for a received request by the ASC, and I urge it not be approved for publication in the Federal Register and formal public comment.

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Thank you for your consideration.

Respectfully submitted,



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