

## § 1101.5

plus permissible extensions of these time limits) will begin only after the Council has received the fee payments described.

(6) *Records of another agency.* If a requested record is the property of another federal agency or department, and that agency or department, either in writing or by regulation, expressly retains ownership of such record, upon receipt of a request for the record the Council will promptly inform the requester of this ownership and immediately shall forward the request to the proprietary agency or department either for processing in accordance with the latter's regulations or for guidance with respect to disposition.

[45 FR 46794, July 11, 1980, as amended at 53 FR 7341, Mar. 8, 1988]

### § 1101.5 Testimony and production of documents in response to subpoena, order, etc.

No person shall testify, in court or otherwise, as a result of activities on behalf of the Council without prior written authorization from the Council. This section shall not restrict the authority of a Council member to testify before Congress on matters within his or her official responsibilities as a Council member. No person shall furnish documents reflecting information of the Council in compliance with a subpoena, order, or otherwise, without prior written authorization from the Council. The Council may authorize testimony or production of documents after the litigant (or the litigant's attorney) submits an affidavit to the Council setting forth the interest of the litigant and the testimony or documents desired. Authorization to testify or produce documents is limited to authority expressly granted by the Council. When the Council has not authorized testimony or production of documents, the individual to whom the subpoena or order has been directed will appear in court and respectfully state that he or she is unable to comply further with the subpoena or order by reason of this section.

## 12 CFR Ch. XI (1-1-05 Edition)

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### Subpart A—Temporary Waiver Requests

AUTHORITY: 12 U.S.C. 3348(b).

SOURCE: 57 FR 10982, Apr. 1, 1992, unless otherwise noted.

#### § 1102.1 Authority, purpose and scope.

(a) *Authority.* This subpart is issued under section 1119(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. §3348(b)).

(b) *Purpose and scope.* This subpart prescribes rules of practice and procedure governing temporary waiver proceedings under Section 1119(b) of Title XI of FIRREA (12 U.S.C. 3348(b)). These procedures apply whenever a State appraiser regulatory agency requests the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") for a waiver of any requirement relating to certification or licensing of a person to perform appraisals under Title XI of FIRREA. They also apply whenever the ASC, based on sufficient, credible information or requests received from other persons or entities, initiates a temporary waiver proceeding.

#### § 1102.2 Requirements for requests.

A request will not be deemed received by the ASC unless it fully and accurately sets out:

(a) If the requester is a State Appraiser Regulatory Agency, a written, duly authorized determination by the State Appraiser Regulatory Agency

that there is a scarcity of State licensed or State certified appraisers leading to significant delays in obtaining appraisals in federally related transactions. The scarcity can relate to the entire State or to particular geographical or political subdivisions. In the absence of such a written determination, a State Appraiser Regulatory Agency must ask the ASC for such a determination;

(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; and

(g) A specific plan for expeditiously alleviating the scarcity and the service delays.

#### § 1102.3 Other requests and information submissions.

The federal financial institutions regulatory agencies and the Resolution Trust Corporation, their respective regulated financial institutions, and other persons or institutions with a demonstrable interest in appraiser regulation, may ask the ASC for a determination under §1102.2(a) of this subpart, and may ask that the ASC exercise its discretionary authority to initiate a temporary waiver proceeding. Such regulated financial institutions and other persons or institutions do not need to comply with §1102.2(g) of this subpart, but are strongly encouraged to include meaningful suggestions and recommendations for remedying the situation. A copy of the request or informational submission shall be forwarded promptly to the State Appraiser Regulatory Agency. The ASC shall consider these submissions and requests in exercising its authority to