

June 29, 2019

Mr. Arthur Lindo
Chairman
Appraisal Subcommittee
1325 G Street N.W. Suite 500
Washington, D.C. 20005

Re: Notice of Received Request for Temporary Waiver, State of North Dakota, North Dakota Department of Financial Institutions, and North Dakota Bankers Association (Docket ID AS19-04)

Dear Chairman Lindo:

The largest professional associations of appraisers in the United States urge you to reject the temporary waiver request from the State of North Dakota, the North Dakota Department of Financial Institutions, and the North Dakota Bankers Association given that a scarcity of appraisers does not exist. The actual number of resident certified and licensed appraisers has *increased* in the state of North Dakota over the past decade.

Additionally, some of the statistics cited by the respondents are potentially misleading, overstating the number of loans per appraiser in North Dakota. We recommend the Appraisal Subcommittee disregard this data or review adjusted figures that utilize more reliable HMDA data sets.

Further, in response to the temporary waiver request, we conducted in-state surveys of residential and commercial appraisers. Both surveys indicate balanced markets, with survey responses that speak against any scarcity of appraisers based on historical fee trends and reasonable turnaround times.

Finally, recent actions taken by the federal bank regulatory agencies and Congress have dramatically increased the percentages of federally related transactions no longer subject to appraisal requirements in North Dakota. Specifically, with the increase in the commercial real estate appraisal threshold level from \$250,000 to \$500,000, and taking into account the \$1 million qualified business loan exemption, 1 in 4 federally related transactions are exempt from appraisal requirements in North Dakota. Meanwhile, recent Congressional action provides additional relief in rural residential transactions below \$400,000, covering more than 90 percent of residential federally related transactions in North Dakota by our estimates. The respondents provide no information on their use of the existing exemptions; however, North Dakota has one of the highest eligibility rates for the use of evaluations in the United States. We believe it is premature to add further regulatory relief measures on top of those already approved by the federal bank regulatory agencies and Congress. Insufficient time has been given to study the impacts of the threshold level increases. Additional actions may have unintended consequences when taken separately and not in concert with other actions.

We believe many of the concerns expressed by the respondents could be addressed with greater communication between appraisers and users of appraisal services, along with the regulatory community. Such actions have been taken in the State of Tennessee following the denial of the

temporary waiver request in Nashville, yielding positive outcomes. We stand ready to assist with such efforts in North Dakota or elsewhere in the United States.

Temporary Waiver Authority

Before discussing each of these issues in greater detail below, our organizations are materially opposed to the use of the Appraisal Subcommittee's temporary waiver authority as outlined by the federal financial institution regulators in the Advisory on the Availability of Appraisers, issued on May 31, 2017. At issue here is the long-standing interpretation of the Appraisal Subcommittee's temporary waiver authority, which we believe was intended for the implementation period of Title XI of FIRREA. The Appraisal Subcommittee has had rules on the use of temporary waiver requests for more than 25 years, but this authority was never intended to be a short term "cure" for demand side driven complaints about contractual issues involving appraiser fees and negotiated turnaround times. This is evidenced by the fact that the Appraisal Subcommittee has approved only one temporary waiver request, and this involved a U.S. territory in the early 1990s who had difficulty approving the necessary legislative provisions establishing appraiser licensing. That request was short in its scope, and that territory was able to resolve the legislative concern in good order. This was the last request for a temporary waiver until the Advisory on Availability of Appraisers was released in 2017, which has frankly, created a lot of unnecessary distraction for the Appraisal Subcommittee and the entire appraisal sector.

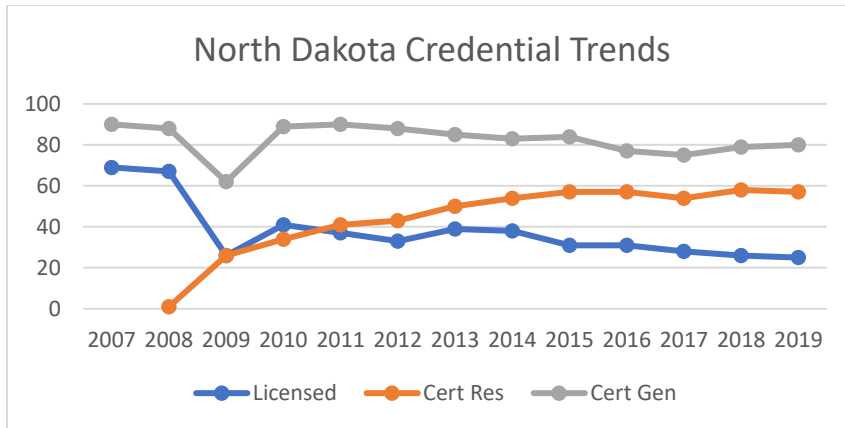
The respondents cite a Senate Banking Committee report as evidence for the authority being used to address appraiser shortages. However, we believe this section could be interpreted to apply to FIRREA implementation compliance deadlines and options that are available to the Appraisal Subcommittee.

Regardless of the new or revised interpretation, the contention made by the respondents that the temporary waiver request process should be "simple and straightforward" is outlandish, given the authority was never envisioned to be used as it is here today. Moreover, it should be emphasized that there seems to be a fundamental misunderstanding as to what a temporary waiver is. It waives the need for a certified appraiser. It **does not** waive the need for an appraisal prepared in accordance with USPAP.

Number of North Dakota Licensees

The North Dakota Real Estate Appraisal Board recently published resident appraiser tallies from 2007 to present. These indicate that the actual number of North Dakota licensed appraisers has *increased* over the past 12 years. Specifically, the total number of licensed and certified appraisers increased from 159 in 2007 to 162 as of April of 2019. Over the past decade, the number of resident Certified Residential appraisers has more than doubled from 26 to 57. Over the same period, the number of North Dakota resident Certified General appraisers increased from 62 to 80.

A chart showing the trend lines for all three appraiser classifications is provided below, which clearly shows the advancement of North Dakota appraisers moving up from Licensed to Certified General and Certified Residential classifications.



Home Mortgage Disclosure Act Figures

The respondents provide information on the number of loans “per appraiser” within their request letter. Specifically, the respondents cite HMDA Residential Real Estate Loan information in selected counties in the North Dakota over the past three years, including county population figures. We believe this information is potentially misleading, overstating the number of transactions that have occurred.

We understand HMDA data reporting is complex and involves multiple layers of loan types. We are told by HMDA reporting experts that the most reliable data is the HMDA Home Purchase information, and that there are multiple loan categories that fall below this data set. Some of these loan categories overlap, meaning one loan can be counted more than once depending on how the loan was structured. With this, the HMDA Residential Real Estate Loan data may double-count loans.

As such, we recommend the Appraisal Subcommittee completely disregard this section of the request letter, as it is potentially misleading and overstates the number of transactions that have occurred. If the Appraisal Subcommittee does review this information, we recommend it to adjust the numbers for the HMDA Home Purchase information, which we understand is the most consistent and reliable data point in the HMDA reporting matrix.

The more aggressive and potentially duplicative set of figures provided by the respondents is presented here:

HMDA Residential Real Estate Loans	County Population	2015	2016	2017	Appraisers in County	2017 Loans per Appraiser
West: Williams County	32,916	859	666	656	3	218
West: McKenzie County	11,679	246	263	192	1	192
West: Stark County	30,316	1,028	925	762	7	108
Central: Ward County	69,628	1,755	1,657	1,357	10	135
Central: Burleigh County (MSA)	92,372	3,307	3,519	2,648	31	85
East: Cass County (MSA)	170,620	5,250	5,802	4,668	48	97
East: Grand Forks County (MSA)	70,130	1,693	1,830	1,435	10	143

The following chart is the more reliable HMDA Home Purchases over the same 3-year period.

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HMDA Home Purchases	2015	2016	2017
State of North Dakota	9,104	8,618	8,383
West: Williams County	476	352	438
West: McKenzie County	130	115	135
West: Stark County	520	385	440
Central: Ward County	886	778	735
Central: Burleigh County (MSA)	1,547	1,509	1,409
East: Cass County (MSA)	2,630	2,697	2,573
East: Grand Forks County (MSA)	787	856	752

The adjusted figures can be found in the chart below.

HMDA Residential Real Estate Loans	County Population	2015	2016	2017	2017 (Adjusted)	Appraisers in County	2017 Loans per Appraiser	2017 Loans per Appraiser (Adjusted)	Difference (Loans per Appraiser)
West: Williams County	32,916	859	666	656	438	3	218	146	72
West: McKenzie County	11,679	246	263	192	135	1	192	135	57
West: Stark County	30,316	1,028	925	762	440	7	108	63	45
Central: Ward County	69,628	1,755	1,657	1,357	735	10	135	74	62
Central: Burleigh County	92,372	3,307	3,519	2,648	1,409	31	85	45	40
East: Cass County	170,620	5,250	5,802	4,668	2,573	48	97	54	43
East: Grand Forks County	70,130	1,693	1,830	1,435	752	10	143	75	68

Adjusting the per appraiser counts yields dramatically lower figures, painting a much different picture than the respondents. Specifically, several of the per appraiser counts by county are cut by nearly half using the more reliable HMDA Home Purchase information.

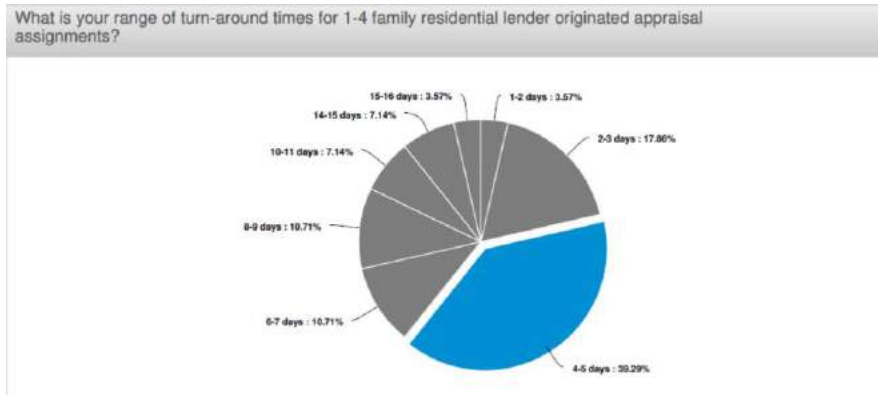
Recent Appraiser Surveys

In response to this temporary waiver request, our organizations conducted surveys of residential and commercial appraisers in North Dakota to capture information on the appraisal market in the state. Complete survey information can be found in the Appendix of this comment letter. As an aside, we note that the respondents did not provide full copies of the surveys used in their request letter, which makes it difficult to fully evaluate the responses of North Dakota banks.

Residential Appraisal Market

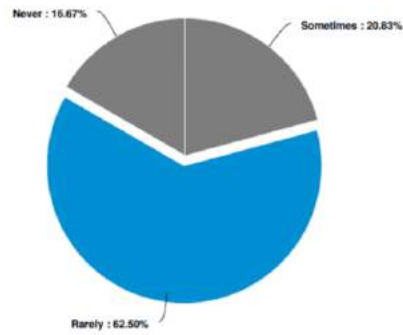
Our survey of residential appraisers indicates a market generally in balance, with appraisers providing reasonable turnaround times to a strong lender client constituency. Some key findings include:

- More than two-thirds (68 percent) of North Dakota residential appraisers report average turnaround times of 7 days or less:



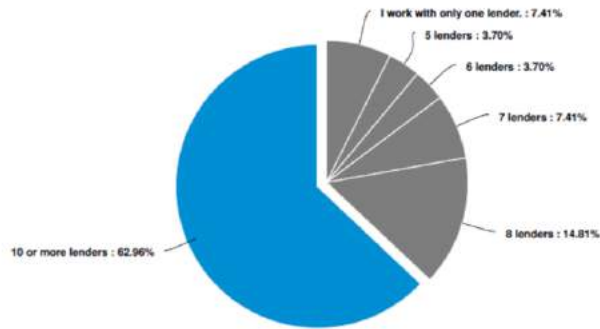
- A nearly equal amount rarely struggles to satisfy negotiated turnaround time requests.

7. How often do you struggle to meet negotiated turn-around times?



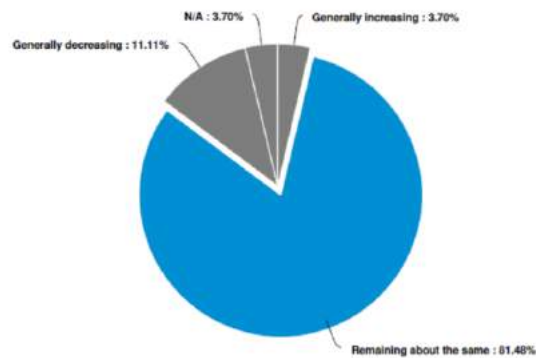
- A healthy average number of lender clients for North Dakota appraisers.

8. Do you perform fee assignments for one or more lenders?



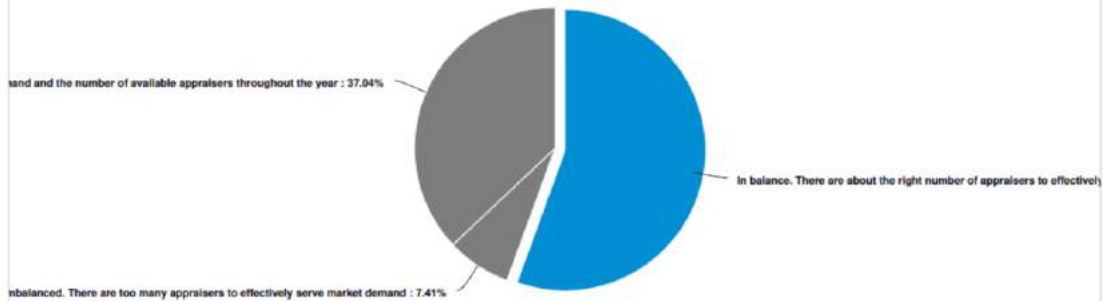
- With residential appraisal fees remaining resoundingly the same in recent years.

9. Over the past 2 years what was the direction of your appraisal fees?



- North Dakota residential appraisers also report an appraisal market in relative balance.

11. In the markets you serve what is the general balance of available appraisers compared to market demand for appraiser services?

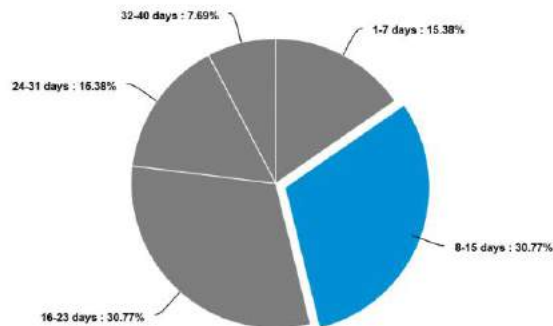


Here, a good number of appraisers report a “changing balance” with seasonal or short-term factors impacting market demand. We note that seasonal demand changes are common in the Midwest, where weather conditions dramatically impact the real estate market. Further, we view functions of market demand as demand side challenges, not those relating to scarcity or supply, which as indicated above, have remained relatively steady.

Commercial Appraisal Market

Our survey of North Dakota commercial appraisers yielded similar findings. Turnaround times for commercial assignments are longer than residential, but that is common throughout the country. More than three-quarters of appraisers indicate a turnaround time of 16-23 days or less, with less than 8 percent reporting more than one-month turnaround times.

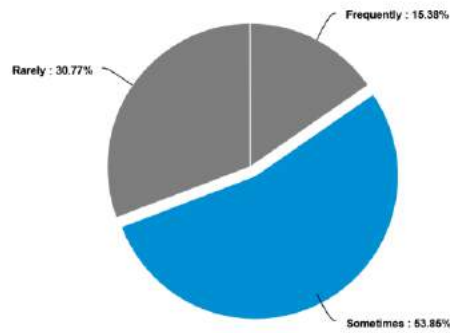
What is your range of turn-around times for lender originated appraisal assignments?



Pressure to meet negotiated turnaround times is higher in commercial than reported for residential appraisers, however, it is still rarely a frequent problem.

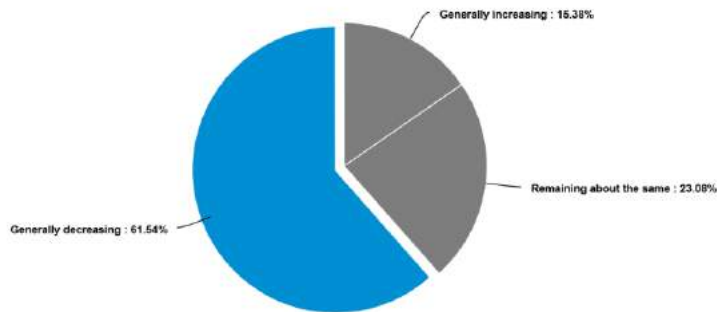
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How often do you struggle to meet negotiated turn-around times?



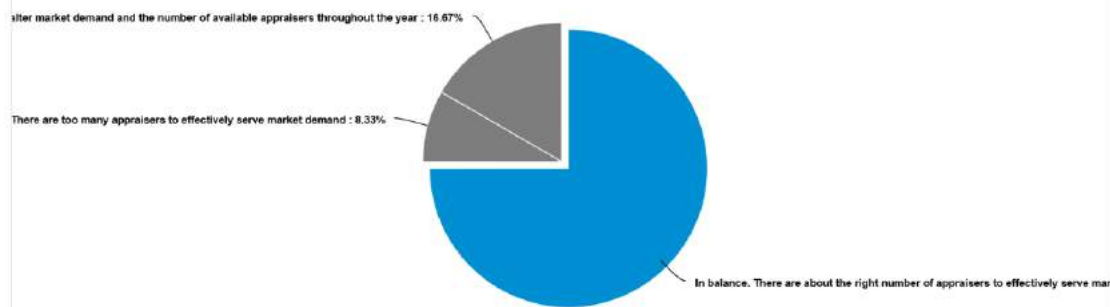
However, the direction of fees in recent years is reported to be decreasing for a majority of North Dakota commercial appraisers.

Over the past 2 years what was the direction of your appraisal fees?



Three quarters of North Dakota commercial appraisers report a market in balance.

In the markets you serve what is the general balance of available appraisers compared to market demand for appraiser services?



Appraisal Threshold Levels

We analyzed Call Report data for the Top 10 banks in North Dakota to investigate the percentage of federally related transactions currently exempt from appraisal requirements, with the results found in the attached Appendix. According to the Call Reports, 1 in 4 commercial real estate and qualified business loans is exempt from appraisal requirements under existing and recently increased appraisal

threshold levels. Approximately 40 percent of qualified business loans – the majority of loans made in North Dakota – are exempt from appraisal requirements today. While commercial real estate loans have a smaller percentage of loans eligible for the appraisal exemption, these are higher risk loans, and North Dakota a smaller commercial real estate lending market compared to the national average.

Further, Congress recently enacted new appraisal relief for rural residential appraisals, which allows lenders to move on the appraisal requirements if they have difficulty placing appraisal assignments with local appraisers and the total loan value is below \$400,000. This new exemption has been in effect for more than one year now.

A strong majority of rural residential transactions falls below this \$400,000 threshold. Zillow reports an average North Dakota home value index of \$206,000, with the state capital and second largest city – Bismarck – as reporting a home value index of \$265,000. We note that this is only slightly above the existing residential appraisal threshold level, meaning, the averages for nearly the entire state fall below this threshold level. It is safe to say that a majority of federally related transactions in North Dakota fall below the appraisal threshold level, meaning evaluations are already allowable in most residential loan situations.

With a rural residential relief threshold level at \$400,000, the vast majority (likely more than 90 percent) of those rural federally related transactions fall below this threshold level.

Request for Comment

The Appraisal Subcommittee seeks information relating to specific questions, which we provide below.

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.*

We submit no scarcity exists -- See above.

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.*

We submit there are no significant delays -- See above.

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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.*

Our surveys of North Dakota appraisers indicate that seasonal market factors impact the real estate market. Short term changes in demand may account for compression on turnaround times, in particular. A similar phenomenon may have occurred in 2016 when interest rates fell to historic lows, prompting a boom in refinance transactions.

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.

Again, we submit a waiver is not warranted. Should the Appraisal Subcommittee consider approving any portion of the temporary waiver request, we suggest it consider waiving certain portions of the appraiser credentialing requirements. Specifically, the Appraisal Subcommittee's authority extends to any requirement relating to certification or licensing of a person to perform appraisals under title XI of FIRREA. As such, it appears as if the Appraisal Subcommittee can waive particular elements of the certification or licensing requirements, such as the experience requirements for appraisers. Such a limited approach would retain the education and testing requirements for North Dakota appraisers, as well as the preexisting USPAP obligations for federally related transactions.

We would also like to point out that waiving credential requirements could have an adverse impact on the appraisal profession in North Dakota. If credential requirements are waived, incentives to pursue such requirements are reduced, leading to fewer appraisers who are credentialed. This has the possibility of creating the supply shortage that currently does not exist in North Dakota.

Thank you again for the opportunity to comment on the temporary waiver request. If you have any further questions, please contact:

- Bill Garber, Appraisal Institute at 202-298-5586, bgarber@appraisalinstitute.org
- John Russell, American Society of Appraisers, 703-733-2103, jrussell@appraisers.org
- Stephan Frerichs, American Society of Farm Managers and Rural Appraisers, 703-212-9416, sfrerichs8@comcast.net
- Steve Sousa, MBREA, 617-830-4530, steve@mbrea.org.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
Massachusetts Board of Real Estate Appraisers
Northstar Chapter of the Appraisal Institute

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Appendix

SUMMARY THRESHOLD STATS - (see stratification for details) - Top 10 banks					
	Ttl Loan \$M	Apprais Not Reqd	%	Apprais Reqd	%
NON FARM NON RES (i.e. CRE)	\$4,197,219	\$452,657	11%	\$3,744,562	89%
C & I LOANS (i.e. Biz Loan)	\$3,303,610	\$1,253,084	38%	\$2,050,526	62%
FARMLAND (\$1MM Biz Loan applies)	\$970,933	\$279,052	29%	\$691,881	71%
AGRI & OTHER FARMER	\$899,189	\$370,311	41%	\$528,878	59%
Totals	\$9,370,951	\$2,355,104	25%	\$7,015,847	75%

NORTH DAKOTA LARGE BANK DATASET - 3/31/19					
		First Westn B&T	Cornerstone Bank		
Appraisals reqd @ origin by loan type & threshold	FDIC Cert →	19123	13198		
Appraisals reqd @ origin if loan ≥\$1MM	FDIC RSSD-ID →	687951	879457	Key Totals	% of State
	AssetsM RCON2170	\$1,120,108	\$930,079	\$21,649,877	66.1%
Orig >\$100M ≤\$250M	RCON5581	\$2,835	\$8,733	\$122,928	
Orig >\$250M ≤\$500M	RCON5583	\$4,737	\$6,500	\$129,513	
Subtotal		\$8,795	\$16,066	\$279,052	
SM Total Farmland	RCON1420	\$19,087	\$43,246	\$970,933	
% loans ≥ \$500M		54%	63%	71%	
SM Agri & Othr Farmers per RC-C part 1 item 3 Small Biz Loans					
Orig ≤ \$100M	RCON5585	\$1,213	\$6,467	\$86,294	
Orig >\$100M ≤\$250M	RCON5587	\$2,572	\$8,253	\$120,077	
Orig >\$250M ≤\$500M	RCON5589	\$3,781	\$14,106	\$163,940	
Subtotal		\$7,566	\$28,826	\$370,311	
SM Total Agri & Other Farmers	RCON1590	\$33,215	\$46,939	\$899,189	
% loans ≥ \$500M		77%	39%	59%	

Name	Regulator	City	Deposits / Assets	Deposits (USD, in thousands)	Assets
WELL BANK	FDIC	Fargo	0.8957	5,379,579	6,005,816
FIRST INTERNATIONAL BANK & TRUST	FDIC	Watford City	0.8978	2,656,336	2,958,853
GATE CITY BANK	OCC	Fargo	0.8443	1,927,092	2,282,429
VALERUS FINANCIAL, NATIONAL ASSOCIATION	OCC	Grand Forks	0.8646	1,911,706	2,211,046
CHOICE FINANCIAL GROUP	FDIC	Fargo	0.8645	1,853,451	2,144,069
AMERICAN BANK CENTER	FDIC	Dickinson	0.9033	1,338,133	1,481,350
STARION BANK	FDIC	Bismarck	0.8197	1,119,171	1,365,301
WESTERN STATE BANK	FDIC	Devils Lake	0.8444	971,707	1,150,826
FIRST WESTERN BANK & TRUST	FED	Minot	0.8654	969,333	1,120,108
CORNERSTONE BANK	FDIC	Fargo	0.9068	843,359	930,079