NATIONAL ASSOCIATION
OF HOME BUILDERS

HOUSING FINANCE & LAND DEVELOPMENT

DAVID L. LEDFORD
SENIOR STAFF VICE PRESIDENT

January 20, 2009

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Docket ID: OCC-2008-0021

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Ms. Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
Docket: RIN 3133-AD38

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket: OP-1338

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Docket: OTS-2008-0012

Subject: Proposed Interagency Appraisal and Evaluation Guidelines
73 FR 69647 (November 19, 2008)

Dear Sirs and Mesdames:

On behalf of the more than 200,000 member firms of the National Association of Home Builders (NAHB), I welcome the opportunity to respond to the proposed guidance (Proposal) issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration, collectively, the Agencies. The Proposal outlines the Agencies' supervisory expectations for the conduct of appraisals and evaluations of real estate assets that serve as collateral for loans held by the financial institutions that are regulated by the Agencies.

NAHB is a national trade association representing individuals and companies involved in the production of housing and related activities. NAHB's builder members are mostly small and medium-size businesses with limited capital of their own. These businesses depend almost entirely on commercial banks and thrifts for credit to finance land acquisition and development and housing production. Individuals who purchase homes produced by NAHB's members rely on mortgage lenders and credit unions, many of which are regulated by the Agencies.

Background

NAHB appreciates the Agencies' concerns relating to the separation of appraisal and credit management functions within regulated financial institutions. The proposed Guidelines call for measures that would allow real estate appraisers to complete their assignments without undue pressure or influence from loan originators and other parties of interest to a particular real estate transaction. In this respect, the proposed Guidelines follow closely the Home Valuation Code of Conduct, which was adopted on December 26, 2008, by Fannie Mae, Freddie Mac, and the Federal Housing Finance Agency.

In addition, the proposed Guidelines would augment the Agencies' 1994 Interagency Appraisal and Evaluation Guidelines by incorporating the guidance that has been provided through the Frequently Asked Questions on Residential Tract Development Lending, which was issued by the Agencies on September 8, 2005, and by providing further clarification, particularly with regard to the Appraisal Exemptions contained in Appendix A; the Evaluation Alternatives contained in Appendix B; and Appendix C, the Glossary of Terms.

NAHB Position

NAHB's comments and recommendations regarding the proposed Guidelines primarily concern: deductions and discounts for proposed construction, renovation and tract developments; selection of appraisers; and, automated valuation models (AVMs).

Deductions and Discounts for Proposed Construction, Renovation and Tract Developments

NAHB members have noted that appraisers have frequently used distressed and foreclosed property sales as comparables in conjunction with appraisals on newly constructed homes. These types of distressed sales should not be used unless no other comparable property sales are available and, if used, lenders' review appraisers must ensure that the appraisers have made the appropriate adjustments. Financial institutions typically require that appraisers only conduct exterior inspections of properties that are to be used as comparables. Too often, properties in foreclosure have issues relating to deferred maintenance or internal damage that an external inspection simply cannot reveal. A prospective purchaser would most assuredly recognize the differences between a newly built home and a distressed property that is damaged or not properly maintained. NAHB submits that appraisers should be instructed to consider the overall condition of a property when selecting comparables.

NAHB members have encountered numerous situations during the past several months in which a financial institution lending to a housing developer has determined that the appraised value of a housing development in process has declined. In some of these circumstances, third party valuations have declined even while homes in these developments have been selling. There appears to be a heavy use of foreclosed properties and/or liquidation prices which are inappropriately driving down values. Some of the appraisals are well below replacement cost, and do not reflect the long term value of the properties. Nevertheless, institutions are relying on these appraisals and requiring developer/builder borrowers to put additional equity into projects, even on current loans with underlying projects that are performing well. NAHB encourages the Agencies to advise financial institutions to ensure that ongoing sales of homes within residential developments are appropriately factored into the decision-making process before a developer is required to invest additional capital into a development. In addition, institutions should be advised to make long-term property values the primary consideration in evaluating the loan-to-value status of outstanding loans.

Selection of Appraisers

In the subsection of the background information titled "Selection of Persons Who May Perform Appraisals and Evaluations," it is mentioned that the person selected to perform an appraisal or evaluation should possess the "… requisite education, expertise, and competence to complete the assignment;" and, "The person selected to perform an appraisal holds the appropriate state certification or license." Further guidance is needed in this area. NAHB suggests that the Agencies should encourage financial institutions to include an examination of appraisers' credentials, continuing education, and industry affiliations as a part of the appraiser selection process. We also note that appraisers who meet state requirements to become licensed appraisers have met their states' *minimum* requirements to perform appraisals. Financial institutions should be encouraged to engage state <u>certified</u> appraisers whenever possible.

Automated Valuation Models (AVMs)

The Guidelines also provide for the use of Automated Valuation Models (AVMs) in certain lower-risk transactions. While the use of AVMs may be appropriate in certain circumstances, no process currently exists for independent third party testing and certification of AVMs. For this reason, NAHB recommends that financial institutions that use AVMs should be encouraged to verify the accuracy of AVMs either internally or through testing by an entity that is independent from a provider of AVM models.

Thank you again for the opportunity to comment. Please direct any questions you may have concerning this letter to William Renner, NAHB's Director of Single Family Finance, at 202-266-8597 or WRenner@NAHB.com.

Sincerely,

David L. Ledford

David L. Ledford
Senior Staff Vice President
Housing Finance & Land Development

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