Kansas Bankers Association

October 15, 2012

Office of the Comptroller of the Currency
Docket No. OCC-2012-0013
RIN 1557-AD62

Board of governors of Federal Reserve System
Docket No. R-1443
RIN 7100-AD90

Bureau of Consumer Financial Protection
Docket No. CFPB-2012-0031
RIN 3170-AA11

Federal Deposit Insurance Corporation
RIN 2590-AA58

Re: Proposed Regulations on Appraisal Requirements for Higher-Risk Mortgages

Thank you for the opportunity to present comments on these proposed changes for appraisals for Higher-Risk Mortgage Loans. The Kansas Bankers Association (KBA) is a non-profit trade organization with 287 of the 290 Kansas banks as members. Member banks are diverse in terms of geography -covering every corner of the state, and in terms of size – from the smallest bank of $3.9 million in assets to the largest bank of $3.5 billion in assets.

This proposal is designed to implement the appraisal requirements for extensions of credit for "higher-risk mortgage loans" as is required by the Dodd-Frank Act. Excluded from the definition of higher-risk mortgage loans, are those mortgages which are "qualified mortgages". However, this proposal does not define what mortgages are "qualified" and thus, are exempt. We are concerned that comments regarding this proposal may change, depending on this definition. That said, the KBA would like to offer comments on a couple of items in the proposal.

The proposal would allow a creditor to make a higher-risk mortgage loan only if certain conditions are met – most importantly, that there is a written appraisal by a licensed or certified appraiser who conducts a physical property visit of the interior of the property. The term, "residential mortgage loan" includes **any** consumer credit transaction that is secured by a mortgage with a security interest on a dwelling.

We would like to ask that the proposal narrow its application to those higher-risk mortgages that are either for the purchase or refinancing of a residential mortgage loan, or for those residential mortgage loans with a loan to value ratio of 50% or less.
We have become aware of at least a couple of instances where a lender wanted to make a loan for the repair of the roof of a customer's home. Due to the fact that interest rates are so low and

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that the customer was not an "A" customer, the rate the bank wished to charge catapulted this loan into the 'higher-risk mortgage loan" category – which would have required the additional expense of an escrow and an appraisal. The customer did not want to pay for an appraisal, and it didn't make sense to the customer that he was required to also escrow to get a loan to repair the roof. The bank, in each case, made the loan to the customer on an unsecured basis, and charged an interest rate commensurate with the offering of unsecured credit. The customer was not benefitted by this requirement, and in fact, was adversely affected indirectly. These are but two examples which we hope will cause further consideration of a modified application of the rule.

Secondly, we are concerned about the alternative metric which would replace APR as the trigger for a high-cost and higher-risk mortgage. We hope that fees from outside sources – for services provided by other entities and not the lender continue to be excluded. For example, title insurance, appraisal fees, and closing costs are not within the control of the lending institution. Including those types of fees within a metric penalizes the lending institution. The lender is not able to control what others charge for their services, so then will have to adjust their own fees for services provided, or let the loan fall within the HOEPA definition for a high-cost mortgage, which requires more work on the part of the compliance officer.

In conclusion, the KBA would like to again, thank you for your consideration of the comments presented here. Please know that our goal is not to impede the presentation of good, thoughtful regulation with regard to higher-risk mortgage loans, and we can all agree that maintaining the quality of appraisals with regard to any mortgage loan is a must towards creating confidence in the loan product. To that end, we hope these comments are useful as the proposal moves towards finality.

Sincerely,

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President

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SVP-Director of Legal

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SVP-General Counsel