NAHB
National Association of Home Builders

Housing Finance & Regulatory Affairs
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Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

12 CFR Part 34
Docket No. OCC-2018-0038
RIN 1557-AE57

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

12 CFR Part 225
Docket No. R-1639
RIN 7100-AF30

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

12 CFR Part 323
RIN 3064-AE87

Proposed Rule: Real Estate Appraisals

Dear Sir or Madam:

NAHB is pleased to submit comments on the proposed rule issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation ("the agencies") to amend the agencies' regulations requiring appraisals for certain real estate-related transactions. We appreciate the opportunity to comment on the proposed rule to raise the threshold on residential real estate-related transactions requiring an appraisal from $250,000 to $400,000.

NAHB is a Washington DC-based trade association representing more than 140,000 members involved in the development and construction of for-sale single family homes, including homes for first-time and low- and moderate-income homebuyers, as well as the construction, ownership and management of multifamily rental housing, including affordable rental housing.

NAHB and its members have a strong interest in supporting a housing finance system that offers home builders and home buyers access to affordable mortgage financing in all geographic areas and economic conditions. The process to evaluate the collateral supporting real estate transactions is an important component of the overall housing finance system.

NAHB supports efforts that provide streamlined processes and reduce regulatory burdens for single family and multifamily housing. NAHB estimates that, on average, regulations imposed by all levels of government account for 24.3 percent of the sales price of a new single family home and 32.1 percent of the cost of an average multifamily development. Therefore, reducing regulatory burden and providing flexibility to financial institutions will help facilitate the production of new housing.

Background on Appraisal Requirements

Title XI directs each federal financial institutions regulatory agency to require regulated institutions to obtain appraisals meeting minimum standards (Title XI appraisals) for certain real estate-related transactions. The purpose of Title XI is to protect federal financial and public policy interests in real estate-related transactions by requiring that Title XI appraisals be performed in accordance with uniform standards by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

Title XI directs the agencies to prescribe appropriate standards for Title XI appraisals under the agencies' respective jurisdictions. At a minimum, Title XI appraisals must be performed in accordance with USPAP, as defined by the statue and subject to appropriate review for compliance. A federally related transaction (FRT) is a real estate-related financial transaction that the agencies or a financial institution regulated by the agencies engages in or contracts for, for which the agencies require a Title XI appraisal. The agencies have authority to determine those real estate-related financial transactions that do not require Title XI appraisals. Real estate-related financial transactions that are exempt from the agencies' appraisal requirement are not FRTs under the agencies' appraisal regulations. The agencies have exercised this authority by exempting several categories of real estate-related financial transactions from the agencies' appraisal requirement, including transactions at or below certain designated thresholds.

Title XI expressly authorizes the agencies to establish thresholds at or below which Title XI appraisals are not required if the agencies determine in writing that the threshold does not represent a threat to the safety and soundness of financial institutions and if the agencies receive concurrence from the Consumer Financial Protection Bureau (CFPB) that such threshold level provides reasonable protection for consumers who purchase 1-to-4 unit single-family residences. Under the current thresholds, residential real estate transactions with a transaction value of $250,000 or less, certain real estate-secured business loans (qualifying business loans) with a transaction value of $1 million or less, and commercial real estate (CRE) transactions with a transaction value of $500,000 or less do not require Title XI appraisals. The appraisal threshold applicable to residential real estate transactions has remained unchanged since 1994.

In preparing the proposed rule, the agencies conducted analyses using 2017 data reported under the Home Mortgage Disclosure Act (HMDA), which requires a variety of financial institutions to maintain, report, and publicly disclose loan-level information about residential mortgage originations. The agencies used the 2017 HMDA data to estimate the coverage of the proposed threshold increase in terms of the number of transactions and dollar volume of transactions that would be affected relative to total HMDA originations, focusing only on those transactions originated by FDIC-insured institutions and affiliated institutions that were not sold to the government-sponsored enterprises (GSEs) or otherwise insured or guaranteed by a U.S. government agency (regulated transactions). The agencies compared these coverage estimates with the coverage of the current threshold both now and when the current threshold was adopted in 1994. The agencies used these analyses to estimate the number and dollar volume of loans that could be affected by the threshold increase, including the expected number and dollar volume of loans in rural areas, and to assess the potential impact of the threshold increase on burden reduction and on the safety and soundness of financial institutions.

To consider the probable effect on burden reduction, the agencies assessed the potential impact of the proposed threshold increase on the entire mortgage market and on regulated transactions. The agencies estimate that increasing the appraisal threshold from $250,000 to $400,000 would have exempted an additional 214,000 residential real estate originations at regulated institutions from the agencies' appraisal requirement, which represent only three percent of total HMDA originations (first-lien, single-family) in 2017. However, they represent 16 percent of regulated transactions. This increase in the number of loans that would no longer require appraisals would provide meaningful burden reduction for regulated institutions.

Additionally, the 2017 HMDA data show that the proposed rule would provide significant burden relief in rural areas. The agencies estimate that increasing the appraisal threshold to $400,000 would potentially increase the share of exempt transactions from 82 percent to 91 percent of the number and from 43 percent to 58 percent of the dollar volume of regulated transactions that were secured by residential property located in a rural area.

Overview of the Proposed Rule

The agencies are proposing to increase the appraisal requirement threshold for residential real estate transactions in an effort to reduce regulatory burden, while maintaining federal public policy interests in real estate-related transactions and the safety and soundness of regulated intuitions. The proposed rule would increase the threshold level at or below which appraisals would not be required for residential real estate-related transactions from $250,000 to $400,000. However, the proposal would continue to require evaluations that are consistent with safe and sound business practices for transactions exempted by the increased threshold. The proposed rule would also make conforming changes to add transactions secured by residential property in rural areas that have been exempted from the agencies' appraisal requirement to the list of exempt transactions.

NAHB Comments

NAHB appreciates the agencies efforts to identify areas where regulatory burden can be reduced without negatively impacting safety and soundness and encourages the agencies to continue this work. NAHB supports the agencies proposal to increase the threshold to exempt residential real estate transactions from the appraisal requirement from $250,000 to $400,000. The current exemption level of $250,000, established in 1994, has never been revised to reflect the appreciation of real estate values in today's economy. NAHB appreciates the thorough analysis performed by agencies to determine the impact of this proposed change, in particular the effect on rural areas. NAHB believes that reducing regulatory burden by increasing the appraisal threshold for residential real estate transactions will improve efficiency and alleviate unnecessary delays and costs for regulated institutions and consumers.

Thank you for your consideration of NAHB's comments. NAHB looks forward to working with the agencies and all housing market participants to promote a safe and sound lending environment.

Please contact Curtis Milton, NAHB's Director of Single Family Finance (email: cmilton@nahb.org or phone: 202-266-8597) if you have any questions about this letter.

Sincerely,

Jessica R Lynch

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