NORTH DAKOTA
BANKERS
ASSOCIATION

September 22, 2017

Office of the Comptroller of the Currency
RE: Docket No OCC-2017-0011
RIN 1557-AE18 regs.comments@occ.treas.gov

Federal Reserve System
Docket No. R-1568
RIN 7100 AE-81 regs.comments@federalreserve.gov

Federal Deposit Insurance Corporation
RIN 3064 AE-56 Comments@FDIC.gov

Proposed Real Estate Appraisal Regulations

The North Dakota Bankers Association ("NDBA") appreciates the opportunity to comment regarding the agencies' proposal to amend their real estate appraisal regulations. NDBA is a trade association for state and nationally chartered banks and thrifts. NDBA's 73 members, among them the largest and smallest banks in the U.S., operate throughout North Dakota to offer a broad range of retail and commercial products and services within our communities.

Because North Dakota banks have for years been struggling with a shortage of qualified appraisers, NDBA strongly supports the agencies' initiatives to address the longstanding appraiser shortage by increasing the Title XI appraisal requirement threshold. Banks in rural areas are especially affected by this appraiser shortage because busy appraisers don't need to travel to rural areas in order to have enough business. Furthermore, without competition and enabled by overly broad regulatory reliance on appraisal requirements, appraisers who do service rural markets can charge premium rates for services. Even in good times, this situation causes stress to rural banks and their customers. However, the need for regulatory relief for appraisal requirements is especially urgent now. Most of North Dakota's farmers and communities are currently suffering from a combination of "exceptional" to "extreme" drought and depressed prices for agricultural commodities. These factors mean many farm customers are facing a difficult economic situation for this year, certainly, and likely for a few more. Frankly amending the Title XI real estate appraisal regulations to provide ag customers and North Dakota bankers with a less expensive and faster means to assess the value of farm and ranch real estate would provide meaningful relief and would better allow banks to help sustain ag borrowers through these tough times.

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To provide meaningful relief from regulatory burden, however, a bolder approach is needed. NDBA urges the agencies to substantially increase the monetary threshold for the Title XI exemption as it applies to CRE to $1,000,000 to match the exemption level that was set in 1994 for certain business loans and, based on experience with current exemptions to allow the use of valuations, rather than certified appraisals, to recognize the safety and soundness of banks is not threatened by including transactions secured by residential real estate up to a limit of $500,000 within this regulatory relief.

These enhancements to the proposal would significantly improve the proposed revision and would not create additional complications (as the proposed change actually does) by distinguishing loans to construct residential properties from permanent financing for residential real estate and creating two classes of residential mortgage loans, one that is federally related and one that is not.

The current monetary threshold of $250,000 is long out of date and the agencies should be commended for acting to address regulatory requirements that have contributed to the shortage of appraisers. However, as is acknowledged by the agencies' commentary, banks have long demonstrated their ability to operate safely and soundly while originating real estate secured loans of up to $1,000,000 based upon a valuation that complies with agency guidelines rather than a certified appraisal. Regulatory relief should reflect the experience provided by bank compliance with the evaluation guidelines and do more than almost reflect 20 years of inflation. If the agencies conclude more must be done to ensure safety and soundness if monetary thresholds are increased to levels that are more reflective of the needs of farmers, businesses and consumers in the economy of today considering today's costs, then address that question directly, rather than doing too little too late with the monetary thresholds.

Additionally, NDBA must take issue with the CFPB position that consumers are to be excluded from benefits of this regulatory relief. Perpetuating the 1994 standards for consumer loans only imposes greater expense and delay without any demonstrated, commensurate benefit. To the extent appraisals were a factor in the 2008 crisis, the issue was one of shoddiness, not banks' failures to obtain appraisals. As we do not contest the importance of a bank and consumer having a sound valuation for collateral, we and the agencies must recognize neither an evaluation that complies with the guidelines nor an appraisal is a reliable prognostication of future real estate markets and neither eliminates market risk; both are assessments of the market value of a property in an existing market and under the existing conditions, whether that market is overheated or depressed. While NDBA does not disparage the importance of certified appraisals as a risk management tool for many situations, an appropriate evaluation is a time tested means long used by banks to address the more ordinary risks they face when they are originating conventional residential real estate loans. Banks realize this and are capable of determining within more reasonable monetary thresholds than exist today the situations for which a certified appraisal is needed and those for which an evaluation that complies with guidelines is appropriate.

NDBA disagrees with the agencies' explanation that this effort to reduce regulatory burden is constrained because there are inconsistencies with other agency and GSE requirements which in application curb implementation of positive changes to Title XI appraisal requirements and restrict the benefits to a relatively limited number of real estate secured loans. NDBA respectfully disagrees with this circular rationale. It would be preferable for all federal bank regulatory agencies to have uniform appraisal regulations. That goal notwithstanding, if the OCC, Board of Governors and FDIC agree banks' safety and soundness is not jeopardized when they use compliant evaluations to support lending in stated circumstances then relief should be granted now. While CFPB and other agencies and GSEs continue to review the matter, evidence to support regulatory relief by those agencies will be developed by the banks which are to fully implement Title XI relief and use evaluations to support qualifying loans. One cannot take a step by step approach if no agency takes the first step.

Revising the Title XI appraisal requirement to expand the monetary threshold for transactions that do not require a formal, certified appraisal is warranted and overdue regulatory relief which will help all banks to better serve their customers in a timely and cost effective manner. That said, exigent circumstances arising from low commodity prices and drought make this relief especially critical for banks who finance economic activity in rural focused communities. The relief provided by actions such as expanding the Title XI appraisal threshold will help these banks survive to continue their crucial mission.

Thank you for your careful consideration of these comments.

Sincerely yours,

NORTH DAKOTA BANKERS ASSOCIATION

Rick Clayburgh,
President and Chief Executive Officer