American Bankers Association
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September 29, 2017

Ann E. Misback, Secretary,
Board of Governors of the Federal Reserve System,
20th Street and Constitution Avenue, NW.,
Washington, DC 20551
Re: 1568 (RIN 7100 AE-81) Reg.Y; Real Estate Appraisals
Email: *regs.comments@federalreserve.gov*

Mitchell E. Plave, Special Counsel
Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency,
400 7th Street, SW., Suite 3E-218, Mail Stop 9W-11,
Washington, DC 20219
Re: Docket ID OCC-2017-0011
Email: regs.comments@occ.treas.gov

Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Re: RIN 3064-AE56
Email: Comments@FDIC.gov

Re: Request for Comments on Proposal to Increase the Real Estate Appraisal Threshold

Dear Ms. Misback and Messrs. Plave and Feldman:

The American Bankers Association ("ABA")[1] appreciates the opportunity to provide comments on the Joint Agency Proposed rule on Real Estate Appraisals.[2] In this proposal, 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") are inviting comment on a proposal to amend regulations requiring appraisals of real estate for certain transactions. The proposal would increase the threshold level at or below which appraisals would not be required for commercial real estate transactions from $250,000 to $400,000. The proposal also solicits comments on

1 The American Bankers Association is the voice of the nation's $17 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $13 trillion in deposits and extend more than $9 trillion in loans.

2 82 FR 35478

multiple questions relating to valuation requirements for real estate transactions, including residential transactions.

ABA commends the work of the agencies in analyzing the impact of these regulatory changes on the safety and soundness of the banking industry, as well as the agencies' attempts to minimize systemic risks. These proposals are of particular importance as real-estate-secured transactions are currently facing unique challenges in light of appraiser shortages in many regions of the country. As recognized in the preamble to the proposed rule, industry commenters are warning that it is often difficult to find state-certified and licensed appraisers to complete assignments for properties in rural and other areas. Our members report there is a limited number of qualified appraisers willing to accept assignments in many of their markets—even when the bank is willing to pay a premium for the assignment. This shortage negatively impacts borrowers as it extends turnaround times, extends rate locks, and delays closings. In certain cases, members report that they are unable to finance loans and compete in more rural markets.

General Comments

ABA generally supports the proposals advanced herein, as they pose workable solutions with attention to risks to the safety and soundness of the banking industry. Under the proposed rule, the increase in the thresholds for requiring appraisals in commercial transactions would be accompanied by effective risk-control measures. In summary, where institutions decide to forego obtaining an appraisal by state-certified or licensed appraisers, the rule would require that institutions obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices. This requirement will serve as an effective safeguard to the proposed threshold increase because alternative valuation methods can be highly reliable and assure accuracy via various approaches to value conclusions. We note that depository institutions currently have the experience, the procedures, and the practices in place to manage and evaluate real-estate-secured loans in their marketplace, including risk management quality control systems to ensure the proper review is provided. The Appraisal Institute and The Appraisal Foundation have available education tools to further enhance the review process for the banks.

The increase in the commercial real estate threshold to $400,000 is a simple and clear-cut change that can be implemented with ease. A threshold increase will provide immediate relief to the challenges faced by banks as they traverse the current shortage of appraisers and lengthening of turnaround times in the industry. This solution would also address increased costs associated with small-dollar transactions for small business owners. Financial institutions will be able to control the process and the turnaround times, as well as the quality of the product to protect the risk within their portfolio. Prudent risk management practices that ensure the safety and soundness of commercial real estate assets remain tied to comprehensive internal procedures.

Residential Transactions

ABA encourages the agencies to engage in much deeper consideration of increasing the threshold for appraisal requirements in residential transactions. ABA appreciates and agrees with the agencies' uncompromising concern over prudent lending practices and the stabilization of the housing market. We note, however, that properly managed, the expanded threshold limit need not add to systemic risk in banking. As mentioned above, accurate valuation tools are readily available and currently utilized by regulated banks. Our members currently perform valuations for residential portfolio transactions, home equity loans, and routine asset quality reviews. These valuations adhere with the interagency guidelines[3]and are assessed by the prudential regulators during safety and soundness examinations. If the bank provides an internal evaluation for the transaction, the cost is borne by the bank. Third-party evaluations are approximately 25 percent of the cost of an appraisal and would reduce consumer costs.

In the proposal, the agencies allude to considerations of safety and soundness concerns that "could result from a threshold increase for residential transactions." The preamble does not fully explain that concern. In the current context, this worry appears to be misplaced. There is less risk in the homogeneous loan pool of 1-to-4 family residential loans than there is in commercial real estate. The minimal risk to a bank's balance sheet by 1-to-4 family residential loans is demonstrated in the amount of Risk-Based Capital required to be held by banks, which is half of the amount held compared to that amount required to be held against Commercial Real Estate loans. Hence this factor should support consideration of an increase to the threshold for residential 1-to-4 family transactions.

More importantly, ABA respectfully points out that there appear to be inconsistencies in the agencies' preamble observations regarding the determination to not increase the residential threshold levels. The agencies describe that increasing the threshold for residential transactions would have a limited impact on burden, as appraisals would still be required for the vast majority of transactions. This conclusion may no longer be accurate. The launch of Freddie Mac's Automated Collateral Evaluation[4] and Fannie Mae's Property Inspection Waiver[5] programs (the "GSEs") could now offer the possibility of waiving appraisals on considerable quantities of eligible transactions. The programs are for single-family purchase and refinance loans; in such transactions, the GSEs could no longer require that appraisals be performed. It is still uncertain, but these new programs may potentially include very large segments of the residential real estate market. Therefore, the agencies' statement that an increase in the residential thresholds would have "limited impact" needs further analysis. The ABA encourages further consideration on the expansion of appraisal waivers by the GSEs and the impact on regulated banks regarding the need and utility of the increase in threshold for 1-to-4 residential transactions.

ABA members have observed that the recent expansion of the GSE appraisal waiver programs may lead to competitive disadvantages for portfolio lenders in the marketplace. For regulated banks that originate loans for their own portfolio, comparative closing costs would be significantly higher vis-à-vis mortgage lenders that will use the GSE waivers to eliminate a sizable fee associated with the mortgage transaction. This negative impact could be avoided with a limited increase in the residential threshold levels, allowing depository institutions to have parity with other market players. In this sense, most banks already have the tools, processes and policies to internally handle evaluations for an increase to the threshold. We note that not all

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[3] Interagency Appraisal and Evaluations Guidelines, 75 FR 77450, at 77458 (December 10, 2010)
[4] Freddie Mac Automated Collateral Evaluation Requirements, September 2017
http://www.freddiemac.com/singlefamily/loanadvisorsuite/pdf/ACEMatrixDoc.pdf
[5] Fannie Mae Property Inspection Waiver Frequently Asked Questions, August 18, 2017
https://www.fanniemae.com/content/faq/property-inspection-waiver-faqs.pdf

banks that qualify for the appraisal exemption will opt to forego appraisals. Many of our bank members have indicated they will continue to order appraisals; all would prefer, however, to have the waiver option available.

The agencies also cite to Consumer Financial Protection Bureau (the "Bureau") staff views that appraisals can provide consumer protection benefits and their concern about potential risks to consumers resulting from an expansion of the number of residential mortgage transactions that would be exempt from the Title XI appraisal requirement. Although there may be some ancillary consumer benefit to a bank-ordered appraisal, the reality of the transaction is that, in real estate transactions, the appraisal is not ordered for the benefit of the consumer, but rather, for the benefit of the lender. Consumers may, and are often advised to, obtain an appraisal for their own use. The point that the appraisal is attained for the mortgagee's protection should not be overlooked—if the Bureau wants to fully protect the "consumer," they should fully educate consumers on the benefits of obtaining valuation reports that are structured in accordance to their transactional interests.

Answers to Additional Questions:

We would like to take this opportunity to address the following questions posed by the joint agencies that we feel are most important to our members:

Question 1. The agencies invite comment on the proposed effective date, including whether this time period is appropriate and, if not, why.

The member banks felt immediate implementation would be appropriate and would provide a benefit to the organization and the customer. Banks will be able to change their process without having to rush to implement the new rule, as evaluations are dependent on the bank's policy rather than regulatory requirements.

Question 2. The agencies invite comment on the proposed definition of commercial real estate transaction? *(See answer to Question #3.)*

Question 3. The proposed definition of commercial real estate transaction would include loans to consumers for initial construction of their dwelling or transactions financing the construction of any building with 1-to-4 dwelling units, so long as the loan does not include permanent financing, with the effect of permitting these loans to qualify for the higher $400,000 threshold. The agencies invite comment on the consumer, regulatory burden, and other implications of the proposal. What would be the implications of not including these loans in the definition, which would leave the current $250,000 threshold in place?

The member banks found the proposal's definition of "commercial real estate transaction" to be sufficient. However, there may be limited benefit to including construction of buildings with 1-to-4 dwelling units that do not include permanent financing. Some of these loans require permanent financing at the end of the construction period and as such, an appraisal would be required. The risk is best managed if there is a shortfall in the appraised value (cost is not equal to value) and in many cases it is best understood by the consumer prior to initial funding.

Question 4. The agencies invite comment on the consumer, regulatory burden, and other implications of the proposed exclusions of construction-to-permanent loans from the definition of commercial real estate transaction, meaning that the current $250,000 threshold would apply. What would be the implications of including construction-to-permanent loans in the definition of commercial real estate transaction, thus allowing these loans to qualify for the higher $400,000 threshold?

As stated above cost does not equal value. Many construction loans may be short term at application. Some consumers may later apply for permanent financing, at the option of the borrower, and they may choose to obtain an appraisal. Construction lending is a riskier portfolio base, and an initial appraisal is prudent risk management.

Question 5. The agencies invite comment on the proposed level of $400,000 for the threshold at or below which regulated institutions would not be required to obtain appraisals for commercial real estate transactions.

Our member banks support the proposed increase to $400,000 or a higher threshold. The increased amount justifies the cost and return of originating these smaller dollar amount, less complex loans that hold a smaller risk in their portfolio. The proposal helps to alleviate the challenges in finding an appraiser in the regional areas as the impact of the shortage continues.

Question 6. How would having three threshold levels ($250,000 for all three transactions, $400,000 for commercial real estate transactions and $1 million for qualifying business loans) rather than two threshold levels applicable to Title XI appraisals within the appraisal regulation affect burden to applicable institutions?

Three thresholds will have minimal impact on the bank operations. Banks already have clearly defined processes and policies for commercial and consumer purpose loans and these changes will only require a slight shift in procedures.

Question 7. The agencies invite comment on the safety and soundness impact of the proposed $400,000 threshold for commercial real estate transactions.

ABA's primary concern is prudential underwriting and asset quality. We agree with the regulatory assessment in the Federal Register and see no significant impact to the safety and soundness of the financial industry, to the marketplace, nor a decline in asset quality with this proposed change. The use of the valuations with less complex loans will not increase risk, however, the internal evaluation process will need to provide adequate analysis.

Question 8. The agencies invite comment on the data used in this analysis, and what alternative sources of data would be appropriate for this analysis.

Members did not have alternative data for analysis.

Question 9. The agencies invite comment on the proposed requirement that regulated institutions obtain evaluations for commercial real estate transaction at or below the $400,000 threshold.

The members felt that obtaining evaluations was appropriate.

Question 10. What type of additional guidance, if any, do institutions need to support the increased use of evaluations?

The interagency guidance is sufficient. Examples of acceptable industry practices would be helpful for some member banks.

Question 11. To what extent does the use of evaluations reduce burden and cost over the use of appraisals? To what extent are evaluations currently done by in-house staff versus outsourced to appraisers or other qualified professionals?

The time and cost of an appraisal on transactions of $400,000 or less often do not support the return and cost of originating these low-dollar and small risk loans in a bank portfolio. The evaluation either outsourced or produced by in-house resources is more cost-efficient for the bank. The valuations require QC oversight and fall within the normal review processes at the bank. The turnaround time is more easily controlled by the bank, creating a more cost-effective product. Some of our banks prefer to produce evaluations done by in-house staff, due to the consistency of the product and knowledge of the marketplace.

Question 12. The agencies invite comment and supporting data on the appropriateness of raising the current $1,000,000 threshold for qualifying business loans and the associated implications for safety and soundness.

At this time, our member banks feel the current $1,000,000 threshold for qualifying business loans is appropriate.

Question 13. What unique risks do institutions associate with qualifying business loans?

Members felt these are higher risk loans. If there is a shift in the business income or business cash flow, the collateral becomes more important component of the loan security.

Question 16. The agencies invite comment on the clarity of the application of the current threshold for qualifying business loans, and on any difficulty that financial institutions have experienced in interpreting the limitation on source of repayment.

The primary source of repayment has created a variety of interpretations that qualifying business loans are owner occupied loans, and there is confusion in the industry. Examples, of these types of loans would be helpful.

Question 17. As discussed earlier, the agencies have articulated several bases for declining to propose an increase in the residential threshold. The agencies request comment on whether there are other factors that should be considered in evaluating the current appraisal threshold for 1-to-4 family residential properties.

ABA believes that the agencies must engage in a reconsideration of the decision to reject an increase in the residential thresholds. As set forth above, a major reason to reconsider the increase of residential thresholds is that recent changes in the secondary market have the potential to very negatively impact community banks' ability to compete for loans. The ABA supports prudent, safe and sound lending practices and asks for further consideration for 1-to-4 family residential properties. Members report increasing struggles with the shortage of *appraisers, particularly in rural markets, as well as with the ominous impacts of an aging appraiser population nationally. These trends have led to difficulty in finding appraisers to accept assignments in certain geographic areas, resulting in delays in closing times for consumers that impact closing costs. A consideration for an increase by the agencies would assist in alleviating the obstacles posed without threatening the safety and soundness of lending practices in the industry.*

Sincerely,

[redacted]

Sharon L. Whitaker