CONFERENCE OF STATE BANK SUPERVISORS

Via Electronic Submission

February 5, 2019

Stuart Feldstein, Director
Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

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

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

Re: Real Estate Appraisals [Docket ID OCC-2018-0038]

Dear Mr. Feldstein, Ms. Misback, and Mr. Feldman:

The Conference of State Bank Supervisors ("CSBS")[1] appreciates the opportunity to comment on the Notice of Proposed Rulemaking ("NPR") issued by the Office of the Comptroller of the Currency (the "OCC"), the Federal Reserve Board (the "Board"), and the Federal Deposit Insurance Corporation (the "FDIC") (collectively, the "agencies") to 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.

---

[1] CSBS is the nationwide organization of state regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. CSBS supports the state banking agencies by serving as a forum for policy and supervisory process development, by facilitating regulatory coordination on a state-to-state and state-to-federal basis, and by facilitating state implementation of policy through training, educational programs, and examination resource development. In addition to chartering and supervising approximately 79 percent of the nation's banks, CSBS member agencies are also the primary regulators of over 20,000 non-depository financial services providers, including non-bank mortgage lenders that account for a substantial portion of residential mortgage originations across the United States.

State regulators support the proposed increase to the appraisal threshold for residential real estate transactions and believe it will provide immediate relief to banks and communities where limited appraiser availability has resulted in delays in the home purchase process. In addition, state regulators appreciate that the proposed increase will bring the residential appraisal threshold in line with general measures of inflation and changes in average home prices that have occurred since the threshold was last updated in 1994. State regulators also agree with the agencies conclusion that the proposed increase does not present an undue threat to the safety and soundness of institutions, and that real estate evaluations conforming with regulatory guidance provide reasonable support for market values as well as protection for consumers.

RELIEF FOR BANKS AND COMMUNITIES IMPACTED BY APPRAISER SHORTAGE

State regulators have previously written to the agencies regarding the impact of a shortage of appraisers in many geographies across the United States.[2] The lack of appraiser availability is most pronounced in rural areas, but it also impacts urban geographies. Often, licensed or certified appraisers listed as available to perform work in a given state are located many states away, are dedicated to a large non-bank mortgage lender, or are otherwise unavailable to perform appraisals in a timely and cost-effective manner. Federal banking agencies have recognized concerns regarding appraiser availability, and in 2017, released a joint *Interagency Advisory Notice on the Availability of Appraisers.* The joint notice outlined two options available to impacted financial institutions but neither of the options (temporary practice permits or temporary waivers under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) has been effective in providing relief.

Congress also recognized the need for appraisal relief, and section 103 of the Economic Growth, Regulatory Relief & Consumer Protection Act (signed into law in May 2018) included an exemption from appraisal requirements for transactions secured by residential property in rural areas. Transactions are eligible for the exemption if the value is $400,000 or less and the bank has contacted no less than three state certified or licensed appraisers and documented that none were available within five business days beyond “customary and reasonable fee and timeliness standards” for comparable appraisal assignments. The exemption via the new law was helpful, but would have required rulemaking to set definitions and process around documentation and other requirements. The agencies proposed rulemaking is broader than the exemption in law and will provide immediate relief without necessitating that banks follow the process outlined section 103 of EGRRCPA.

SAFETY AND SOUNDNESS CONSIDERATIONS

As noted above, state regulators agree with the agencies’ conclusion that the proposed increase in the threshold level does not present an undue threat to the safety and soundness of

[2] See *“On Interagency Proposed Appraisal Threshold for Transactions Secured by Commercial Real Estate”* dated September 29, 2017 available here. See also Letter to Appraisal Subcommittee dated April 9, 2018 available here.

institutions. Banks will still be required to obtain appropriate evaluations for real-estate transactions below the threshold. Each of the agencies have provided supervisory guidance for conducting evaluations in a safe and sound manner[3] and state regulators believe that real estate evaluations conforming with regulatory guidance provide reasonable support for market values as well as protection for consumers.

Based on an analysis of 2017 HMDA data, the agencies noted that approximately 750,000 residential real-estate transactions under the current threshold of $250,000 were exempted from appraisal requirements under the current rules. The agencies concluded that the proposed increase would have exempted an additional 214,000 residential real estate transactions from appraisal requirements. These exempted transactions represent only three percent of total (first-lien, single-family) HMDA originations, and 16% of total regulated transactions. Therefore, the proposed threshold increase would have only a modest impact on the overall market but would provide meaningful burden reduction for regulated institutions.

In addition to having a limited impact on the volume of exempted transactions, the proposed increase will have only a limited impact on the aggregate dollar value of exempted transactions. When the threshold was raised from $100,000 to $250,000 in 1994, the agencies estimated that the aggregate dollar volume of exempted transactions due to the threshold increase was 85 percent of all new sales, and 82% of all existing home sales. The agencies expect the proposed threshold change would have increased the aggregate dollar volume of exempted 2017 HMDA transactions by 14%. Therefore, the proposed increase would be less likely to pose a safety and soundness risk than the current threshold did when it was introduced in 1994.

Overall, the agencies estimate that 91% of all mortgages originated in the United States are already not subject to the agencies' appraisal requirement due to their being sold to the GSEs or otherwise insured or guaranteed by a U.S. government agency or having transaction amounts at or below the current $250,000 threshold. Under the proposal, USPAP-conforming appraisals will continue to be required by the GSEs, and therefore, the proposed increase will not impact that segment of the housing market.

Conclusion

State regulators appreciate the opportunity to comment on the agencies' Notice of Proposed Rulemaking to raise the threshold for transactions secured by residential real estate. The housing market has changed substantially since the thresholds were last raised in 1994, and the proposed increase is reflective of these changes. State regulators are committed to working with the agencies to address the ongoing shortage of appraisers that is impacting many areas across the country. We encourage the agencies to evaluate the impact of the threshold increase on appraiser availability to determine if additional increases or other actions are

[3] *Interagency Advisory on the Use of Evaluations in Real Estate-Related Financial Transactions* (75 FR 77450, December 2010) *and Supervisory Expectations for Evaluations* (FDIC FIL-16-2016, March 2016).

necessary. State regulators look forward to the continued discussions and coordination with the agencies on appraisals.

Sincerely,

[redacted]

John Ryan

President & CEO