INTEGRA Realty Resources
Local Expertise...Nationally

January 19, 2009

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn: Comments

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve Board
20th and Constitution Avenues, NW
Washington, DC 20551
Attn: Docket No. OP-1338

Mr. John C. Dugan
Comptroller of the Currency
Independence Square
250 E Street, SW
Washington, DC 20219-0001
Attn: Docket ID OCC-2008-0021

Ms. Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428
Attn: RIN 3133-AD38

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552,
Attn: ID OTS-2008-0012

Re: Comments to Proposed Interagency Appraisal and Evaluation Guidelines

Dear Federal Regulators:

Integra Realty Resources appreciates the opportunity to provide comments to you on the Proposed Interagency Appraisal and Evaluation Guidelines (the "Guidelines"). Integra is the largest independent commercial real estate appraisal and consulting organization in the US. Integra and its shareholders also started and are the majority owners of IRR-Residential, a residential appraisal franchise organization and national appraisal management company. Each organization is anchored by skilled local valuation professionals that are highly respected in the industry. Between the two organizations, there are more than 100 offices, more than 175 MAI or SRA designated appraisers and approximately 1,000 valuation professionals.

We support the general intentions of the proposed Guidelines, which we believe should lead to more aggressive and consistent oversight and enforcement by federal regulators with regard to appraisal practices by financial institutions. An independent un-biased appraisal is a critical piece to ensuring sound lending decisions. Too many institutions have allowed their appraisal functions to fall prey to pressures from loan production and thereby lessen their risk management functions.

We also have been pleased by recent actions of the federal bank regulatory agencies to highlight the importance of sound collateral valuation, and we hope this trend continues and that these Guidelines serve as a means for treating collateral valuation policies more seriously than they have been treated in the recent past.

IRR.
1901 West 47th Place, Suite 300 ▪ Westwood, KS 66205-1834 ▪ Phone: 913-236-4700 ▪ Fax: 913-236-4307 ▪ www.irr.com

We have many important comments and specific suggestions for the proposed Guidelines, which follow in the attached supplement, but there are several important issues we wish to highlight here.

Independent Appraisals Protect the Institution, the Consumer and the Taxpayer

The fundamental principals of Title XI of FIRREA, USPAP and state licensing laws hold that valuation of real estate must be independent from the commission-based services of financing, managing, leasing and selling property.

Numerous states have incorporated within their regulations a required separation of appraisal and brokerage services for real estate. Essentially, the valuation industry has worked, over the past two decades, to establish separation between the appraisal and brokerage functions to insure independence of this critical process.

An independent appraisal serves as a safeguard for the protection of all current and future parties to the mortgage loan transaction, including the borrower, the originating lender, the secondary market participant and as we are now seeing the taxpayer.

Consistent with the foregoing, the oversight agencies should broadly establish policies that require, not just encourage, appraisal management processes at financial institutions that are independent from the influence of loan origination, portfolio management and disposition functions. This would include those responsible for the management and disposition of assets from failed institutions.

While the agencies have properly focused on policies that ensure independence during loan origination processes, we believe that greater attention going forward must be paid to the development of policies that ensure that independence is maintained during management and disposition of assets as well.

Proposed Guidelines Should Apply to Failed Institutions

Proceeds from the sale of REO, performing and non-performing loan assets from failed institutions are maximized when there is transparency of information. This includes relatively current valuation information on the collateral properties from an independent party to the transaction. Lack of transparency forces asset offers to include "worst case" scenarios. Accordingly, the agencies should adhere to the proposed Guidelines, once finalized, or adopt similar internal guidelines that govern those responsible for the disposition decisions on assets from failed institutions.

Valuations From Appraisers Are More Reliable And Better Protect Loan Participants

Valuations prepared by independent appraisers provide more consistent and reliable valuations as compared to alternative non-automated valuation products. Appraisers are licensed, professionally trained in valuing real estate and must meet minimum education and experience standards. Institutions should be broadly encouraged to seek the most reliable valuation products appropriate for the credit decisions undertaken. Such products and providers of such products should be compliant with the laws of the state in which the subject property is located.

Mortgage Brokers Should Be Covered by Proposed Guidelines

We suggest adding provisions relating to mortgage brokers in the proposed guidelines. Mortgage brokers originate a substantial percentage of mortgages, but are not required to adhere to any rules separating appraisal functions from loan production functions of their businesses. Effectively, financial institutions have used mortgage brokers to find and qualify borrowers. Without incorporating mortgage broker responsibilities within these guidelines, vast numbers of mortgage loans are not covered.

Supplemental Comments Providing Specific Suggested Edits to Proposed Guidelines

In addition to the general comments highlighted above, we have several specific comments to the current text of the proposed Guidelines. These comments are included in the attached supplement to this letter. Please note that for each comment, we have included both a recommended edit and an explanation supporting our recommendation.

Integra Realty Resources thanks you again for your consideration of our points of view and comments to the proposed Guidelines. If you have any questions about this matter and our comments, please contact us at (913) 236-4700.

Sincerely,

INTEGRA REALTY RESOURCES, INC.

Kevin K. Nunnink, MAI, SRA, FRICS,
Chairman of the Board

Attachment

ATTACHMENT:

SUPPLEMENTAL COMMENTS TO
PROPOSED INTERAGENCY APPRAISAL AND EVALUATION GUIDELINES

January 19, 2009

In addition to our general comments highlighted in the attached letter, Integra Realty Resources offers the following specific comments to the text of the proposed Guidelines:

- *Page 11, 3rd line.* Insert following underlined sentence after the sentence ending with the words "by the loan production process or borrower.": For failed institutions, the same independence will be required, including the ordering of appraisals and evaluations from a third party that is independent of the firm disposing of the asset.

  Comment: As noted in our letter, proceeds from the sale of REO, performing and non-performing loan assets from failed institutions are maximized when there is transparency of information. This includes relatively current valuation information on the collateral properties from an independent party to the transaction. Lack of transparency forces asset offers to include "worst case" scenarios. Accordingly, the agencies should adhere to the proposed Guidelines, once finalized, or adopt similar internal guidelines that govern those responsible for the credit and disposition decisions on assets from failed institutions.

- *Page 13.* Insert the following underlined words to last sentence: "The Agencies expect institutions to maintain a robust review process for ensuring that appraisals and evaluations support their credit decisions and, in the case of a failed institution, their disposition decisions."

  Comment: The intended review process helps to ensure that appraisals and evaluations are adequate to support sound credit decisions. The addition recommended above would provide that there be no less of a threshold for asset disposition decisions at failed institutions.

- *Page 19, 4th line.* Change "should" to "will" as in: "The program will:"

  Comment: The change from "should" to "will" would close a potential loophole in interpretation of the Guidelines' intent.

- *Page 19.* Add new bullet point: "In the case of a failed institution, agencies will follow similar appraisal independence procedures as outlined herein."

  Comment: Per the comments in our letter, this recommended addition would ensure that agencies responsible for failed institutions would be held under the Guidelines to the same standards regarding their credit and disposition decisions.

SUPPLEMENTAL COMMENTS TO
PROPOSED INTERAGENCY APPRAISAL AND EVALUATION GUIDELINES

- *Page 19.* Add a second new bullet point: "Establish due diligence review appraisal criteria to ensure that for any acquired interest in mortgage backed securities, correspondent, wholesale, brokered, individual loans, loan portfolios or loans originated, processed or underwritten by agents, third parties or anyone other than the institution fully comply in all respects to these federal interagency appraisal standards as well as the appraisal and evaluation standards of the institution."

  Comment: This recommended addition would expand the mortgage originations covered by the Guidelines to those loans initiated through or acquired from other originators. To not do so allows the institution to avoid such compliance by simply acquiring non-compliant originated loans from third parties. Please refer to the highlighted comments in our letter regarding the necessity of having the Guidelines cover mortgage broker initiated loans.

- *Page 19.* Add a third new bullet point. "Institutions are required to comply with state appraisal licensing laws for the state where the real estate collateral is located, as states may require providers of valuations or evaluations to be licensed as appraisers."

  Comment: This recommended addition would provide clarity that institutions are required to be in compliance with respective state laws in addition to these Guidelines.

- *Page 21.* Insert the following underlined sentences after the first sentence, as follows: "An institution's collateral valuation program should establish criteria to select, evaluate, and monitor the performance of the persons who perform an appraisal or evaluation. This evaluation process may also allow the selection of an appraisal management company to perform the selection of the appraisers. In the case of a failed institution, agencies will also follow the independence criteria referenced in this section."

  Comment: This recommended addition would provide clarity that institutions can use appraisal management companies as agents for purposes of selection of the appraisers. It also would include those responsible for failed institutions to follow the same criteria.

- *Page 21.* Insert the following underlined sentence after the second to last sentence, as follows: "Further, the person who selects or oversees the selection of the appraisers or persons providing evaluation services should be independent from the loan production area. Likewise, in the disposition of assets of a failed institution, the appraiser should be independent of the company that is performing the disposition of the asset."

  Comment: This recommended addition would include those responsible for failed institutions to follow the same appraiser independent criteria.

- *Page 30.* Insert the following underlined words at the end of the first sentence in the "Appraisal Reports" section, as follows: "An institution is responsible for identifying the appropriate appraisal reporting option to support its credit decision, including new loan origination, loan draws and advances, cash out refinance, REO loan workout, foreclosure or other credit and disposition actions that either affect the borrower or potentially expose an institution to credit risk."

Comment: This recommended addition would provide additional clarity to the credit decisions that the "appropriate appraisal options" should support.

- *Page 32.* Insert the following underlined parenthetical in the first sentence, as follows: "An institution should select persons who are independent of the loan production process and the transaction (including when appraising assets of failed institutions), and have real estate-related training and experience to perform evaluations."

  Comment: This recommended insertion would extend the Guidelines' proper independence, training and experience requirements to those responsible for failed institutions.

- *Page 34.* Revise the last sentence in the first paragraph as follows: "A more detailed evaluation shall be required for certain transactions such as those involving:"

  Comment: Replacing "may" with "shall" would provide better clarity as to the intent of the sentence.

- *Page 45.* Add new underlined sentence after last sentence on page: "In instances when the collateral is located in a market identified as a declining market or real estate prices are declining or a market with oversupply of inventory, appraisals rather than evaluations are required."

  Comment: More reliable valuation products should be required in distressed market conditions. Providing such specific direction will cause more consistent utilization of appraisal practices.

- *Page 56.* Add new paragraph at the bottom of the page, as follows: "Evaluation alternatives should be limited to those states that do not have state laws that require licensed appraisers to perform valuations for federal insured institutions."

  Comment: Suggested change would provide clarity that institutions must be in compliance with the laws of the states where the subject properties are located.

- *Page 57.* Insert the following underlined sentence after the third sentence in the "Agent" paragraph, as follows: "According to the Agencies' appraisal regulations, fee appraisers must be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transactions. Appraisal management companies may be agents of the institution."

  Comment: Recommended change would provide clarity to the institution's ability to utilize third party appraisal management companies as their "agents."