



MORTGAGE BANKERS ASSOCIATION

September 29, 2017

Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
400 7th Street SW., Suite 3E-218, Mail Stop 9W-11
Washington, DC 20219
Docket ID OCC–2017–0011; RIN 1557–AE18

Federal Deposit Insurance Corporation
Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
550 17th Street NW
Washington, DC 20429
RIN 3064 AE-56

Board of Governors of the Federal Reserve System
Ann E. Misback, Secretary
20th Street and Constitution Avenue NW
Washington, DC 20551
Docket No. R–1568; RIN 7100 AE-81

Re: Real Estate Appraisals; Notice of Proposed Rulemaking and Request for Comment¹

Dear Sir or Madam:

The Mortgage Bankers Association (MBA)² appreciates the opportunity to comment on changes to the appraisal threshold for commercial real estate transactions proposed by the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (the Fed) and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies). As we describe below, we support the proposal and suggest possible approaches for keeping appraisal requirements calibrated to safety-and-soundness considerations going forward.

Background

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 requires the agencies to prescribe appropriate standards for appraisals. Congress amended the law in 1992 to allow the agencies to create a threshold limit at or below which the lack of an appraisal performed by a state certified or licensed appraiser does not represent a threat to the safety and soundness of financial institutions. The agencies exercised that authority and issued rules setting the threshold limit set for commercial real estate transactions at \$250,000 in 1994, and that threshold remains in place today.

¹ 82 Fed. Reg. 35478 (July 31, 2017).

² The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's web site: www.mba.org.

Recently however, commenters expressed interest in raising the limit during the last Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) process. Responding to the EGRPRA process and those comments, the agencies recognized that, with the passage of time, “the time and cost associated with the appraisal process impose an unnecessary burden in the completion of smaller-dollar amount real estate-related transactions.”³ The agencies therefore proposed to increase the threshold from \$250,000 to \$400,000, and are now soliciting comments on the proposed change.

MBA supports the proposed increase in the commercial real estate appraisal threshold

We applaud the agencies for recognizing the need to increase the appraisal threshold for commercial real estate transactions. MBA supports a real estate market that efficiently allocates capital while still maintaining sound risk management policies. We believe the proposed change in the appraisal threshold strikes a better balance of those interests. That improved balance will decrease the number of appraisals banks must obtain, enabling banks to improve their operational and cost efficiency. This has a positive impact because appraisals can often be difficult to obtain and impose unwarranted costs when not necessary, and this type of smaller-volume commercial lending can help spur economic development of local communities.

Our hope is that the proposed increase in the appraisal threshold may also foster a balanced supervisory examination regime around lower-volume commercial real estate lending. While banks are not required to obtain an appraisal for loans of less than \$250,000, some MBA members report that they still obtain appraisals to streamline their examination processes in some cases, even when the banks do not believe they are necessary as a matter of risk. Rather, they may obtain an unnecessary appraisal solely to avoid undue second guessing with their decision not obtain an appraisal. We hope that, by increasing the threshold to \$400,000, the agencies send a clear message to both banks and examiners that the banks are empowered to exercise their business judgment when determining which loans require an appraisal when the loan is less than the threshold amount.

MBA recommends a periodic process to re-evaluate the appraisal threshold

While we support this proposal and appreciate the agencies’ willingness to respond to feedback, we also recommend that the agencies consider establishing a process to reevaluate the threshold periodically.

The process used to arrive at the \$400,000 threshold considered changes in inflation and property values. Those factors will continue to fluctuate and change going forward, so a process that can periodically recalibrate the level would be appropriate.

Another factor that could require periodic recalibration of the appraisal rule is the impact of changes in technology on commercial real estate evaluations and appraisals. As the OCC describes, “The value of the collateral securing the loan is a significant risk factor in real estate lending, so it is essential for banks to have adequate appraisal and evaluation programs in place.”⁴ Advances in technology may result in faster, lower-cost alternative valuation methods that become sufficiently reliable in fulfilling that function which might warrant further increases in the appraisal limit or other changes to the appraisal rules. Therefore, any periodic review and recalibration process should also address this dimension of change over time.

³ 82 Fed. Reg. 35481 (July 31, 2017).

⁴ <https://www.occ.treas.gov/topics/credit/commercial-credit/appraisals.html>

While the EGRPRA process successfully catalyzed the current proposal, the next EGRPRA review is not due until 2027. In light of the likely pace of possible changes in markets and technology, we suggest the agencies adopt a process that reanalyzes raising the threshold more frequently than every 10 years to better reflect the dynamic real estate market.

* * *

In sum, MBA strongly supports the agencies' proposal to raise the threshold for appraisals on commercial real estate transactions. The proposed change would enable banks to improve their operational efficiency and could provide more clarity around banks' ability to elect not to require an appraisal without triggering safety-and-soundness concerns. We further urge the agencies to consider creating a process to update the appraisal threshold periodically. MBA appreciates this opportunity to provide input, and we look forward to continuing to working with the agencies to improve commercial real estate lending for banks.

Should you have questions or wish to discuss these comments, please contact Ashley Gunn, Associate Director for Commercial/Multifamily Policy, at (202) 557-2748 or agunn@mba.org.

Sincerely,

A black rectangular redaction box covering the signature of Thomas T. Kim.

Thomas T. Kim
Senior Vice President
Commercial/Multifamily
Mortgage Bankers Association