BB&T

Branch Banking and Trust Co.

Corporate Compliance
100-01-06-40
223 W. Nash Street (27893)
P. O. Box 1847
Wilson, NC 27894-1847

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Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429
(via Comments@FDIC.gov)

RE: No. 2005-56

BB&T Corporation ("BB&T") appreciates the opportunity to comment on the Interagency Guidance on Nontraditional Mortgage Products. BB&T is a regional financial holding company with three state-chartered banks that have branches in twelve states as well as multiple non-bank subsidiaries.

Our comments in response to the OCC, Board, FDIC, OTS and NCUA (the Agencies) request are as follows:

In the background section of the proposal, the Agencies note that the products which are the subject of the proposed Guidance, and often referred to as nontraditional mortgage loans, have been available in similar forms for many years, and that, in recent years, consumer demand and secondary market appetite have grown rapidly for such products. Financial institutions have established underwriting, compliance, and risk management functions to cover all types of loan products regardless of the features offered. Financial institutions are also aware of the Agencies expectations, as with all activities, that we adequately measure, monitor, and control risk exposures in our loan portfolios. BB&T complies with all laws and regulations that are applicable to nontraditional mortgage loans and feels that these laws and regulations appropriately address any concerns the Agencies may have at this time. Therefore, we respectfully recommend that the Guidance simply restate the requirements of relevant Federal consumer protection laws.

The proposal appears to assume that nontraditional mortgage loan products include all of the features and practices discussed in the proposal, although within the background section of the proposal, the Agencies hint that it is not the individual features and practices that concern them but the layering of such features into one loan. BB&T does not offer a nontraditional mortgage loan product as the Agency portrays it in the proposal, but does offer products that include some of the individual features or practices that the Agencies address. Further, currently few financial institutions offer an individual loan product with more than three of the features or practices layered within one loan product, but this could change based on future customer demand. Financial institutions who offer such features or practices already have the various risk mitigation components in place to handle them. The Agencies should not design a one-size-fits-all approach that could have the unintended effect of allowing examiners to total each individual feature or practice used on a loan and, based strictly on number of features offered, categorize the loan as a negative practice.

The Guidance also seems to be highly influenced by lenders offering Payment Option Arms which allows the customer to choose their payment plan monthly, from paying P&I down, to paying a minimum payment that results in negative amortization. BB&T urges the Agencies to include more specific guidance on individual features such as Option ARMs, Interest Only loans which have the amortization start at the first interest adjustment date, and Interest Only loans which have amortization starting in a future time frame and not tied to the interest rate change date. The Agencies would better serve financial institutions and their customers by addressing their individual concerns for each feature or practice and not apply a one-size-fits-all approach.

Further, we respectfully suggest that the Guidance clarify that the recommended practices are intended as best practices, which institutions are encouraged, but not necessarily required to follow. Such a clarification would help to ensure that the Guidance maintains a proper balance between safety and soundness and product innovation. We are recommending that a clarifying statement regarding the nature of the Guidance be added at the beginning of the Guidance.

The Guidance also proposes rather “conservative” underwriting standards for nontraditional mortgage loans. It not only recommends an evaluation of the borrower’s ability to repay the debt by final maturity at the fully indexed rate, but also recommends that, in the case of negative amortization products, institutions assume the borrower will make only the minimum payment. Furthermore, it recommends that financial institutions “avoid” the use of underwriting practices that may result in the borrower having to rely on the sale or refinancing of the property once amortization begins.

While such underwriting standards may be appropriate in many cases, and are, in fact, currently followed by many financial institutions, the Guidance should permit greater flexibility in underwriting these loans. Nontraditional mortgage products were developed to address nontraditional consumer needs. For example, many of the borrowers who obtain these products expect to remain in a home for only a few years, not throughout the term of the loan. In such cases, financial institutions should not be expected to assume that a borrower will remain in the home until the final maturity of the loan at the fully indexed rate. Such “conservative” standards also fail to acknowledge the mitigating effect of capital and loan loss reserves. Therefore, we respectfully recommend that the Guidance acknowledge the need for some greater flexibility in underwriting these loans, including the consideration of factors such as the anticipated period of time in which the borrower will be in the home, the potential for increases in a borrower's income, and even increases in the value of the underlying property.

It is critical that the Agencies not establish Guidance that is so inflexible as to limit the provision of these types of loan products or at the least puts financial institution's affiliates at a competitive disadvantage in the marketplace. The result will be that the consumers will be left with having to select a nontraditional mortgage product only offered by companies that lack the commitment to safe and sound lending practices shared by Agency-regulated institutions. Alternative mortgage products represent an important innovation in mortgage finance. Therefore, it is important that the Guidance strike an appropriate balance between safety and soundness and product innovation in response to customer demand.

Again, the agencies should use the Guidelines as suggested practices but still remain open to underwriting practices, risk layering practices and risk management strategies that may not comply with every component of the proposal. Caution should be applied though that risk layering, when backed by proper mitigating factors and underwriting guidelines, represents an innovative and value added problem solving tool which can help many consumers.

Finally, unless loan qualification standards are also imposed upon nonbank lenders, financial institutions will be placed at a competitive disadvantage. Nonbank lenders are driving much of the perceived relaxation in underwriting standards and this imbalance should be considered.

As to the specific questions on which the Agencies requested comment, BB&T's responses are as follows:

(1) Should lenders analyze each borrower's capacity to repay the loan under comprehensive debt service qualification standards that assume the borrower makes only minimum payments? What are current underwriting practices and how would they change if such prescriptive guidance is adopted?

BB&T believes that the current method of using the current payment at current market rates should be used to evaluate repayment ability, with perhaps a more stringent analysis when the loan is at a well below-market rate. The Guidance's rather "conservative" underwriting standards for nontraditional mortgage loans, which not only recommends an evaluation of the borrower's ability to repay the debt by final maturity at the fully indexed rate, but also recommends, in the case of negative amortization products, that institutions assume the borrower will make only the minimum payment would unnecessarily confuse borrowers with a temporary introductory minimum.

(2) What specific circumstances would support the use of the reduced documentation feature commonly referred to as ''stated income'' as being appropriate in underwriting nontraditional mortgage loans? What other forms of reduced documentation would be appropriate in underwriting nontraditional mortgage loans and under what circumstances? Please include specific comment on whether and under what circumstances ''stated income'' and other forms of reduced documentation would be appropriate for subprime borrowers.

Stated income is appropriate if mitigated by strong credit scores as well as risk-based pricing which is common in the financial industry

(3) Should the Guidance address the consideration of future income in the qualification standards for nontraditional mortgage loans with deferred principal and, sometimes, interest payments? If so, how could this be done on a consistent basis? Also, if future events such as income growth are considered, should other potential events also be considered, such as increases in interest rates for adjustable rate mortgage products?

At BB&T, we do not generally consider it prudent to underwrite either traditional or nontraditional mortgages with the expectation of future or expected income events. We do not recommend consideration of future income in qualification standards because there is no way to document it. However, we acknowledge the need for some financial institutions to have some greater flexibility in underwriting these loans, including the consideration of factors such as the anticipated period of time in which the borrower will be in the home, the potential for increases in a borrower's income, and even increases in the value of the underlying property. We again encourage the Agencies to allow for such flexibility in its Guidance.

Thank you for the opportunity to provide these comments. We understand the difficulty of promulgating Guidance that balances the Agencies' safety and soundness concerns while providing the features associated with nontraditional mortgage loans brought on by customer demand. We commend you for trying to issue guidance that considers the needs of all.

Sincerely,

Mark D. Vaughn, CRCM
Branch Banking and Trust Co.
Senior Vice President and
Senior Corporate Compliance Mgr.