N A A H L

NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS

October 22, 2012

Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 2-3
Washington, DC 20219
RIN 3064-AD97
Regs.comments@occ.treas.gov

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
RIN 3064-AD97
Regs.comments@federalreserve.gov

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

Dear Sirs/Madams,

The National Association of Affordable Housing Lenders (NAAHL) represents for-profit and non-profit lenders and investors who are committed to increasing the supply of private capital in low- and moderate-income (LMI) communities and underserved areas. Our membership includes major banks; blue-chip, non-profit lenders; consortia; CDFIs; and others in the vanguard of affordable housing and community economic development.

We appreciate the opportunity to comment on the notices of proposed rulemaking (NPRs) that would revise and replace the agencies' current capital rules related to the implementation of the Basel III accord.

Balancing Credit Access and Risk

We are concerned that in an attempt to "get back to basics" and prevent the proliferation of exotic mortgages that led to the financial crisis, the Basel III proposed rules, in combination with last year's "qualified residential mortgage" (QRM) definition, will hinder a fledging housing recovery, create unnecessary barriers to homeownership, and discourage lending in underserved areas. The proposed rules should strike a better balance between borrowers' access to mortgages and lenders' risk from those loans.

The proposal would establish a complex risk weight structure for single family mortgages, with lower weighting for residential mortgages that conform to narrow regulatory criteria (Category 1), and much higher risk weighting for all other mortgages (Category 2). Such a risk weight structure makes it more difficult for lenders to provide credit to potential borrowers and homeowners, especially in underserved areas where large down payments and/or "plain vanilla" mortgage products may not be responsive to local market needs. For example, the dramatic changes from two to eight different treatments based on loan-to-value (LTV) for single family mortgages will create unnecessary complexity and deter prudent lenders from tailoring fair credit products to lower wealth borrowers.

Over the past 20 years, banks and non-profit lenders have increased the availability of healthy credit to underserved areas by using well-designed and solidly underwritten Community Reinvestment Act (CRA) mortgage products that have historically performed quite well. Narrowly drawn regulatory criteria, and significant increases in capital charges for residential lending, will create unnecessary barriers to mortgage finance for modest income homebuyers. **They will also drive borrowers out of regulated, insured depositories and back into the market of unregulated, unexamined lenders.**

The proposal ignores important elements of careful underwriting that serve to mitigate lenders' risk, such as private mortgage insurance, a high FICO score, savings, earnings potential, and housing counseling certification. Carefully originated, soundly underwritten, well-documented single family loans provide families with good homes that they can sustainably afford. The downpayment is only one element of prudent underwriting, yet this proposal discourages lenders from making mortgages to half of all Americans who purchase homes with less than 20% downpayment.

Balancing Risk with Broad Uncertainty and Onerous Regulations

The proposal's complexity is likely to reduce the number of institutions able to finance residential mortgages, effectively concentrating the supply of financing to a limited number of institutions.

The proposal could also have severe consequences for bank investments in securities backed by mortgages. The proposal includes a complex capital framework for investment in tranches of asset backed securities. A 1,250 percent risk-weight will be applied if a bank is unable to demonstrate a "comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure." That framework, combined with the risk of onerous capital charges associated with significant due diligence requirements, will also discourage bank investment in affordable rental housing.

We assume that the proposal maintains the current 50% charge for statutory multifamily mortgages and 100% for qualifying, non-multifamily, performing, commercial real estate mortgages.

But the proposal increases by half (from 100% to 150%) what banks have to hold against multifamily loans for acquisition, construction, and development. In addition, the proposed narrow exception to the 150% charge only credits a developer's cash contribution. This prevents an institution from recognizing the value of land contributed to the project at a price below fair market value, and the borrower's overall history and relationship with the institution, and will prevent financing otherwise reliable, well underwritten ACD loans.

We do support language in the proposal related to the definition of securitization that exempts Community Development and Small Business Investment Corporations from the definition, to wit: 1) the underlying exposures are not owned by a small business investment company described in section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682); and 2) the underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under 12 U.S.C. 24(Eleventh).

Conclusion

The severe, unintended consequences of the proposals must be carefully considered before the rules are finalized. We look forward to working with you to strike the balance between access to, and risk from, mortgage lending so as to increase the flow of private capital to underserved areas.

Sincerely,

Judith A. Kennedy
President and CEO