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May 28, 2020

Robert E. Feldman  
Executive Secretary,  
Federal Deposit Insurance Corporation 550  
17th Street, N.W.  
Washington, D.C. 20429

Ann E. Misback  
Secretary,  
Board of Governors of the Federal Reserve System 20<sup>th</sup>  
Street and Constitution Ave, N.W.  
Washington, D.C. 20551

Chief Counsel's Office  
Attn: Comment Processing  
Office of the Comptroller of the Currency 400  
7th Street, S.W.  
Washington, D.C. 20219

Re: Real Estate Appraisals

Ladies and Gentlemen:

American Bankers Association (ABA)<sup>1</sup> appreciates the opportunity to comment on the banking agencies' (Agencies) interim final rule to amend the regulations requiring appraisals of real estate for certain transactions (IFR).<sup>2</sup> As result of the National Emergency declared in connection with coronavirus, the IFR provides temporary relief to depository institutions by allowing a temporary deferral of up to 120 days for appraisals or evaluations following the closing of a transaction for certain residential and commercial real estate transactions. The deferral excludes transactions for the acquisition, development, and construction of real estate. Relief though this temporary provision will expire on December 31, 2020.

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<sup>1</sup> The American Bankers Association is the voice of the nation's \$18 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard more than \$14 trillion in deposits, and extend \$10.4 trillion in loans.

<sup>2</sup> Federal Register/Vol. 85. No.75 Pg. 21312 /April 17, 2020 <https://www.federalregister.gov/documents/2020/04/17/2020-08216/real-estate-appraisals>

ABA thanks the Agencies for their work throughout the national health crisis to relax or eliminate rules that impede banks' efforts to serve borrowers. Issuing the Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by Coronavirus simultaneously with the IFR helps to provide clear guidance and needed flexibility on real estate appraisals and evaluations. The statements will alleviate lending industry struggles to close credit transactions specifically affecting interior property inspections. As borrowers, lenders, and appraisers deal with unprecedented changes required by Shelter-in-Place or Stay-at-Home orders, these accommodations are crucial to allow banks to close transactions and fund borrowers. ABA appreciates the concession the Agencies have granted, while maintaining sound underwriting for each loan transaction.

### **Temporary Waiver Usage:**

Our members generally indicate that the temporary waiver will be used conservatively, and only where necessary. If, due to the pandemic, a bank is unable to obtain an appraisal or evaluation in time to meet a closing commitment, the institution will be sure the loan is prudently underwritten and use best efforts and available information to develop well-informed estimate of collateral value of the subject property when allowing a temporary waiver. Our bankers report that they will be more inclined to use the temporary exemption to allow financing to take place for creditworthy borrowers engaged in residential transactions. The temporary waiver requires, “[W]hile appraisal and evaluations can be deferred, the agencies expect institutions to use best efforts and available information to develop a well-informed estimate of the collateral value of the subject property.” Data to satisfy this condition is readily available in alternative form for residential properties. On the other hand, a “well-informed estimate of collateral value” for commercial real estate transactions may be too complex to meet that requirement under this temporary waiver.

### **Clarification on ADC Exclusion:**

The IFR provision excluding transactions for acquisition, development, and construction of real estate requires further clarification for purposes of defining these types of loans. ABA requests that the Agencies clarify, via issuance of a FAQ or similar statement, the definition of “acquisition, development and construction of real estate.” Specifically, ABA seeks confirmation that the definition found in FFIEC RC-C Loan and Leases<sup>3</sup> is the one that should be apply to the IFR for real estate appraisals. That definition is as follows:

#### **1.a Construction, land development, and other land loans.**

Report in column B loans secured by real estate made to finance land development (i.e., the process of improving land – laying sewers, water pipes, etc.) preparatory to erecting new structures or the on-site construction of industrial, commercial, residential, or farm buildings. For this item, "construction" includes not only construction of new structures, but also additions or alterations to existing structures and the demolition of existing structures to make way for new structures.

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<sup>3</sup> FFIEC 031 and 041 RC-C Loans and Leases <https://www.fdic.gov/regulations/resources/call/crinstant/601rc-c11.pdf>

Also include in this item:

- (1) Loans secured by vacant land, except land known to be used or usable for agricultural purposes, such as crop and livestock production (which should be reported in Schedule RC-C, part I, item 1.b, below, as loans secured by farmland).
- (2) Loans secured by real estate the proceeds of which are to be used to acquire and improve developed and undeveloped property.
- (3) Loans made under Title I or Title X of the National Housing Act that conform to the definition of construction stated above and that are secured by real estate. Exclude loans to finance construction and land development that are not secured by real estate (report in other items of Schedule RC-C, part I, as appropriate).

Confirmation of this definition would go a long way to reduce uncertainty given the urgent need to assure immediate access to liquidity to businesses and households.

**Conclusion:**

ABA appreciates the agencies' quick action on the interim final rule, and the decision to make it effective immediately upon publication in the Federal Registry on April 17, 2020. We agree that immediate action was required under the challenges imposed by the COVID-19 emergency. Thank you for allowing ABA to submit our comments in support of the interim final rule and the temporary waiver.

Respectfully submitted,



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