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February 5, 2019

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219

Ms. Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

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

Re: Real Estate Appraisals (Docket ID OCC-2018-0038; Docket No. R-1639 and RIN 7100-AF30; RIN 3064-AE87)

Dear Ladies and Gentlemen:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to provide comments on the proposed rule from the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) that would amend the agencies' regulations requiring appraisals for certain real estate-related transactions. It is crucial to our member banks that regulations surrounding residential real estate transactions alleviate regulatory burdens in ways that encourage community

¹ *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 52,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 760,000 Americans and are the only physical banking presence in one in five U.S. counties. Holding more than \$4.9 trillion in assets, \$3.9 trillion in deposits, and \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.*

banks to originate home mortgage loans that are retained in portfolio while also supporting the safety and soundness of the industry. We also recognize that appraisals are valuable tools that assist financial institutions in making sound, informed lending decisions that mitigate credit risk to the bank while protecting consumers. ICBA also commends the agencies for recognizing and addressing our concerns that residential appraisals completed by a certified or licensed appraiser can be costly, time consuming, and result in delays for both the financial institution and the consumer. The proposed changes are good starting points in addressing these issues.

Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 requires regulated institutions to obtain appraisals that meet minimum standards for certain real estate-related transactions. The purpose of these standards is to promote safe and sound banking practices for federally insured financial institutions while providing those institutions with adequate flexibility to serve their customers seeking loans secured by residential real estate. It is important to note that this proposed rule only impacts those mortgage loans retained in the bank's portfolio. Loans that are partially insured or guaranteed by, or are qualified to be sold to, a U.S. government agency or government sponsored enterprise, are not affected by this proposed rule. These unaffected loans represent the vast majority of real estate transactions, and the agencies estimate that a change to the appraisal requirement affects roughly 3 percent of all first-lien, single-family mortgage transactions.

The agencies have the authority to determine real estate-related transactions that do not require Title XI appraisals and have done so in the past by exempting several categories of real estate transactions, including transactions at or below specific designated thresholds. Title XI grants this authority vis-à-vis thresholds if it is clear the threshold does not represent a threat to safety and soundness and the agencies receive concurrence from the CFPB that the threshold level represents a reasonable protection for consumers. The current threshold for residential real estate transactions is \$250,000 and has not been changed since 1994.

The proposed rule would raise this threshold to \$400,000, an amount the agencies argue would provide meaningful burden reduction for regulated institutions, especially in rural areas. It also amends the agencies appraisal regulations to reflect the rural residential appraisal exemption that was a statutory provision of the 2018 Economic Growth, Regulatory Relief, and Consumer Protection Act. For any exempt transaction, the institution would be required to obtain an evaluation of the real property collateral that adheres to safe and sound banking practices.

ICBA's Comments

ICBA appreciates the rationale that went into determining that an increased threshold is necessary and agrees that any set amount must carefully balance the cost and time savings with safety, soundness, and consumer protection. The increasing difficulty in finding qualified real estate appraisers in rural areas further exacerbates the problem for many small lenders. Moreover, consumer risk is mitigated by the fact that the interim final rule on valuation independence requires any evaluation made in lieu of an

appraisal to be wholly independent of the transaction, free of any bias. Individuals preparing the evaluation must be qualified and competent, and trained in performing property evaluations.

ICBA further recognizes the thoughtful analysis and rigorous use of data contained in the proposed rule. HMDA data, combined with conservative use of the Case-Schiller Index, Federal Housing Finance Agency Index, and Consumer Price Index show how the prices for homes have generally trended upward since 1994. This data presents a strong case for raising the threshold to at least \$400,000. Additionally, the proposed rule rightly points out that there is no proven correlation between raised approval thresholds and loss rates. Similarly, the recent financial crisis shows that the use of licensed appraisers does not provide certainty that a home is valued accurately. Though the new threshold exempts more real estate transactions, regulated institutions and consumers retain the prerogative to voluntarily obtain appraisals for exempt transactions.

While ICBA largely agrees with the methodology governing the proposed rule, we urge the agencies to conduct a cost-benefit analysis of raising the proposed threshold to \$500,000 to align with the threshold for commercial real estate transactions set by a final rule in April 2018. ICBA advocated for this amount in a March 21, 2016 comment letter to the agencies in response to a notice under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). In that letter we addressed the Interagency Advisory on Use of Evaluations in Real Estate-Related Financial Transactions.

ICBA also recommends the agencies use an indexing approach to adjust the appraisal threshold to reflect inflation and other market dynamics that affect home prices over time. Indexing would help avoid the pitfalls of outmoded and outdated appraisal thresholds. Just as the agencies relied on indexes to determine the new threshold in the proposed rule, it makes sense to update the threshold on an annual basis in response to new data that provide broad measures of any changes in single-family house prices. It is possible to balance safety and soundness while lifting the onerous burden of requiring appraisals when other forms of property evaluations will suffice.

ICBA appreciates the opportunity to comment on the proposed rule and looks forward to working with the agencies on its finalization and implementation. If you have any questions regarding this letter, please contact me at ron.haynie@icba.org.

Sincerely,

/s/

Ron Haynie
Senior Vice President, Mortgage Finance Policy