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**Pat V. Combs, ABR, CRS, GRI, PMN**
*President*

July 19, 2007

Mr. Alfred Pollard
General Counsel
Office of Federal Housing Enterprise Oversight
1700 G Street, NW, 4th Floor
Washington, DC 20552

[transmitted by e-mail to ofheoguidancecomments@ofheo.gov]

Dear Mr. Pollard:

On behalf of more than 1.3 million members of the National Association of REALTORS® (NAR), I am pleased to provide comments to the Office of Federal Housing Enterprise Oversight (OFHEO) on your proposed Guidance on Conforming Loan Limit Calculations, released on June 20, 2007.

The National Association of REALTORS®, "The Voice for Real Estate," is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,500 local associations or boards, and 54 state and territory associations of REALTORS®. The proposed Guidance will have an impact on the availability of financing for homeownership and, therefore, is of vital concern to REALTORS®.

With respect to the proposed Guidance:

- NAR questions OFHEO's authority to require reductions in conforming loan limits (CLLs) that set the maximum dollar amount of mortgages that Fannie Mae and Freddie Mac may purchase.
- NAR believes that reducing the conforming loan limit is not good public policy because it intensifies downturns in housing markets by reducing the flow of affordable credit and raises other concerns.
- If, notwithstanding our statutory authority and public policy concerns, you decide to issue final guidance based largely on the proposed Guidance, NAR (i) is pleased with several features, including the threshold, the deferral of reductions for at least one

year, and grandfathering mortgages approved under higher CLLs, and (ii) has questions about whether the Guidance achieves the intended purpose and whether the examples are consistent with the Guidance.

## Statutory Authority to Increase, Not Decrease, CLLs

The Fannie Mae and Freddie Mac charters provide for annual CLL adjustments by "adding" an amount that reflects the annual "increase" in a national survey conducted by the Federal Housing Finance Board.[1] The statutory provisions make clear that Congress only authorized adjustments to increase CLLs, and possible reasons for this are suggested in the following section of this letter discussing public policy considerations for not reducing the limits.

The legislative history confirms congressional intent. Congress added the current provision in the Housing and Community Development Act of 1980.[2] The Senate Report states that the Senate bill, S. 2719, "provides for an increase in these maximum limitations."[3] The Conference Report confirms that the annual adjustment is "made by adding to the maximum limitation (as it may have been previously adjusted) a percentage" based on the national survey and notes that the conference report contained the Senate bill provision.[4]

## Public Policy Concerns

Aside from the lack of statutory authority to reduce CLLs, NAR believes that you should revise the Guidance to prevent reducing CLLs for the following public policy reasons.

- When the FHFB survey data shows a national decline in single family home prices, it is the worst possible time to reduce the amount of mortgage credit. A significant decrease in CLLs would exacerbate problems in the housing markets around the country, especially in high cost areas such as California and the northeast. The ripple effect of a downturn in housing on the rest of the economy is well understood. While the one-year delay and one percentage point threshold, before a decrease would apply, will moderate or even avoid a reduction, circumstances could still arise where the Guidance someday could require reducing CLLs, which we believe would be a major policy mistake.

- Another reason not to reduce CLLs even in a declining market relates to the need for families with abusive, unaffordable subprime loans to refinance into fair and affordable loans. Because home prices have moderated or declined in many markets, families with problematic loans and little or no equity are finding it difficult or impossible to refinance. For many families with loans at or near the current CLL, the impact of reducing CLLs will be to make refinancing impossible. This is not the time

[1] See 12 U.S.C. 1717(b)(2) and 1454(a)(2).
[2] P.L. 96-399.
[3] S. Rep. No. 96-736, at 38 (1980).
[4] H.R. Conf. Rep. No. 96-1420, at 26 (1980).

to reduce options for families who have been victims of predatory or abusive lending practices. The Center for Responsible Lending estimates that more than 2.2 million families who have received subprime loans in recent years already have lost or will lose their homes as their interest rates re-set. Reducing CLLs would be one more strike against them.

- The Federal Housing Administration (FHA) mortgage insurance program and the Veterans Administration (VA) loan guarantee program limits are both tied to the CLLs. HUD has made administrative changes to modernize and streamline the FHA program, and NAR supports HUD's proposals for statutory changes to make further improvements. One goal is to make FHA a more practical alternative for families with abusive subprime loans who need to find a reasonable alternative. Reducing FHA and VA limits will counter these efforts to provide more affordable choices for low- and moderate-income families.

## Detailed Comments on Guidance

If, notwithstanding our understanding of the statute and the public policy concerns discussed above, you determine to issue final Guidance closely based on the proposed Guidance, NAR offers the following comments:

NAR welcomes several features of the proposal. Using a threshold that keeps CLLs level until reductions in home prices aggregate 1% will minimize administrative uncertainty and inadvertent approval of mortgages that exceed the reduced CLLs. Even more important is the proposal to delay any decrease for at least one year, to avoid confusion with pending applications in the pipeline. In addition the grandfathering of mortgages originated at higher CLLs is crucial to avoid chaotic and uncertain results. We do think, however, that it makes more sense to grandfather mortgages that have received a firm commitment to provide certainty for homebuyers and avoid situations where closings cannot proceed.

As a technical matter, we think several provisions of the Guidance do not accomplish the intended result when the house price survey shows a decline. To make the explanation of these extremely technical concerns somewhat easier, we will build on the existing situation where there was a 0.16% reduction as of October 2006 that is being deferred in accordance with OFHEO policy. Of course, any Guidance will need to be written generally.

- As we understand the first sentence of Section II.b.(2)(A) of the Guidance, if there is an additional price decline in 2007, both the 0.16% 2006 decline (because it is less than 1%) and any 2007 decline (because all declines are deferred for at least one year) will be deferred until the adjustment decision for 2009. The next sentence in that section seems to be ambiguous: "However, the decrease will [be] deferred to the next year unless it exceeds one percent." We suggest revising it along these lines for clarity: "However, the decrease from the former year or years will be deferred again until all decreases that have been deferred for at least one year exceed one percent, on an aggregate basis."

- Under Section II.b.(2)(B), as proposed, if the price level for 2007 increases, the prior year's decrease will be subtracted from the increase, unless the subtraction results in a decrease of less than 1% in which case the decrease is deferred. This is misleading. The prior year's decrease will be subtracted in all cases because that's the only way to determine the size of the net result. We suggest a revision along these lines:

  > "(B) if the price level increases the following year, any decline from one or more prior years that have been deferred will be subtracted from the increase. If the net result is an increase, the conforming loan limit will be increased by that percentage amount for the next calendar year. If the net result is a decrease of at least 1%, the limit will be decreased by that percentage amount. But if the net result is a decrease of less than 1%, the decrease will be deferred for at least one more year."

- In example (c)(ii), you state that for the calculation for 2009 in the fall of 2008, if there is a decline in 2007 and 2008, you will determine the aggregate decline for all three years and if it is less than 1%, keep the limit at $417,000 and defer the declines. If there is a decline in 2008, it would be irrelevant for this purpose since it will not have been deferred for at least one year (to the fall of 2009 for the 2010 calculation), as we understand Section II.b.(2)(A).

- In example (c)(iii), there is a similar problem. You indicate that a decline in 2008 would be considered for purposes of determining the limit for 2009. We think this is also inconsistent with Section II.b.(2)(A).

## Federal Register Publication

Before deciding whether to proceed with issuing final Guidance providing for reducing CLLs, we strongly urge OFHEO to publish proposed Guidance in the Federal Register and give the public a 60 day comment period. In light of the important public policy issues raised by the proposed guidance, all interested parties should have a reasonable opportunity to submit their views. Posting on the OFHEO website is not sufficient to bring the proposed guidance to the attention of the public. We recommend this process whether or not publication is a legal requirement, considering the significant negative impact that the proposed Guidance could have on the national economy, home buyers, and homeowners.

Thank you for the opportunity to provide comments on the proposed Guidance. Please contact Jeff Lischer, Manager, Financial Services (202.383.1117; jlischer@realtors.org) if you have any questions about our comments.

Sincerely yours,

Pat V. Combs

Pat V. Combs, ABR, CRS, GRI, PMN
2007 President, National Associations of REALTORS®

cc: The Honorable Barney Frank, Chairman
The Honorable Spencer Bachus, Ranking Member
House Financial Services Committee

The Honorable Christopher Dodd, Chairman
The Honorable Richard Shelby, Ranking Member
Senate Banking Committee