April 11, 2007

Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 1-5
Washington, DC 20219

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

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

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: OCC 2007-0005
Fed Docket No. OP-1278
OTS Docket No. 2007- 09
NCUA No. 2007-09

To Whom It May Concern:

On behalf of the more than 30,000 members of our respective professional appraisal organizations, thank you for the opportunity to comment on the proposed Statement on Subprime Mortgage Lending. This statement addresses emerging issues and questions relating to subprime mortgage lending practices, discussing risk management and consumer compliance processes, policies and procedures that institutions should implement to respond to these concerns.

We wholeheartedly support the issuance of guidance on subprime mortgage lending, highlighted by the burgeoning foreclosure problem in that market and the collapse of several subprime mortgage lenders in recent weeks. Undoubtedly, lax or poor lending practices have contributed to the foreclosure problem, as have insufficient risk management practices by financial institutions and other financial participants. Systematic inattention to collateral and a failure to follow appropriate guidelines for appraisals and selection of appraisers have also contributed to the current situation, in our opinion. This is notwithstanding your agency's recent guidance on appraiser independence and appraisal management.

Given the concerns about mortgage fraud and foreclosures in the subprime market, we are disappointed that no mention is made of collateral or appraisals in the Subprime Mortgage Lending guidance. Many cases of mortgage fraud involve subprime loans, where reliance on collateral valuation becomes even more important to both lenders and consumers, given the risks involved in the transaction. In addition, according to the Financial Crimes Enforcement Network (FinCEN), Suspicious Activity Reports relating to mortgage fraud have doubled over the past four years, and losses resulting from such fraud have tripled to roughly $3 billion annually. The Federal Bureau of Investigation and others report to us that many of these cases involve loans made with the assistance of inadequate or faulty appraisals. Because of this, we think it is imperative that the agencies again emphasize the expectations regarding the appraisal process, particularly the need for appraisal independence.

As you know, basic real estate lending principles, generally, can be seen as founded on the "Three C's" – Credit, Capacity to repay, and Collateral. Lenders review the credit history of a borrower, the income level or ability to repay a loan and how much the collateral is worth. If there are weaknesses in any of these areas, the loan carries greater risk. Further, accurate appraisals are important to both lenders and borrowers in any mortgage loan transaction. For lenders, should a borrower fail to make payments on the loan, thereby forcing a foreclosure action, the underlying collateral is the only asset remaining from the transaction. Likewise, an accurate appraisal assists buyers when making purchasing decisions, assuring them of sufficient equity in their home. All real estate investments carry risk, but this risk can be mitigated through an accurate appraisal performed by a qualified real estate appraiser.

Any breakdown in the collateral valuation process will create greater risk for both lenders and consumers. Unfortunately, we see the independent appraisal process threatened by those more interested in closing a deal than sound underwriting. Despite recent reminders by the federal financial institution regulators of the importance of "firewalls" between appraisers and those with a vested interest in a transaction, attempts of appraiser coercion continue. An independent study conducted by the October Research Corporation found that appraisers continue to face pressure by mortgage brokers, realty agents and others to raise property valuations to enable deals to go through.

Our members report the issue of inappropriate pressure more frequently in the unregulated lending environment (non-bank mortgage lenders, mortgage brokers or "financial services institutions"), which has grown significantly since the federal bank regulatory agencies first developed their appraisal regulations in the early 1990s. At least 80 percent of subprime loans are now originated by these unregulated entities, according to Scott Polakoff, Deputy Director of the Office of Thrift Supervision. In many cases, appraisal independence firewalls simply do not exist within these lending participants, largely because they fall outside the purview of federal bank regulatory agencies.

However, given recent statements by leaders of the House Financial Services and Senate Banking Committees, it appears Congress will consider action requiring meaningful minimum requirements for mortgage lenders and mortgage brokers. Additionally, at a recent House Financial Services Committee hearing, FDIC Chair Sheila Bair called for all lenders to be subject to certain baseline requirements. We support such an effort, particularly if those baseline requirements extend the existing appraisal requirements for regulated institutions to the unregulated market. We believe all consumers deserve protection regardless of the lender they choose.

We also believe an industry-wide developed and accepted statement of "best practices" on real estate appraisals and mortgage lending is crucial to educate all parties involved about the importance of an independent appraisal process. Such a document would outline best practices of lenders engaging real estate appraisers and appraisers performing assignments for non-regulated as well as regulated lenders. While such a document is currently under development, we encourage you to support such a document as assisting in the effort to educate all lenders about the importance of the independent appraisal process.

Proper appraisal management and appraisal independence must be emphasized, particularly as mortgage fraud in residential mortgage lending has grown to new heights. To this end, we strongly encourage your agencies to revise the Statement on Subprime Lending to include meaningful guidance on the critical collateral management issues that face lenders today.

Thank you again for the opportunity to comment on this important guidance. If our organizations can be of any assistance in this matter, please do not hesitate to contact Don Kelly, Chief External Relations Officer, Appraisal Institute, at 202-298-5583 or dkelly@appraisalinstitute.org.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers