

Response to Proposed Agency Information Collection Activities; Comment
RequestFrom: Russ Cummins [russ.cummins@charterco.com]
Sent: Monday, June 28, 2004 2:31 PM
To: infocollection.comments@ots.treas.gov; mmenchik@omb.eop.gov
Cc: Glenn Wertheim; Bruno Ienni
Subject: Response to Proposed Agency Information Collection Activities; Comment Request

June 28, 2004

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

Attn: 1550-0023

RE: Response to Proposed Agency Information Collection Activities; Comment Request

Dear Sir or Madam:

The following are our comments regarding the above referenced Comment Request:

GNMA Loans Subject to Repurchase

The Comment Request referred to certain accounting requirements under FAS 140. Although not a part of the Comment Request, we would like to note our support of the position from the Mortgage Bankers Association of America stating that defaulted GNMA loans subject to repurchase, but are not repurchased, be assigned a zero risk weight for risk based capital purposes and be excluded from institutions' leverage capital ratios.

Delinquency Status

We do not object to the proposal that all delinquent rebooked GNMA loans should be treated consistently and reported as past due on TFR Schedule PD in accordance with their contractual terms. We agree users of the TFR will have a method to identify the amount of loans that are not guaranteed by the U.S. Government.

Foreclosed Real Estate

We have the following concerns regarding the proposal that foreclosed property should be reported as other real estate owned (OREO) beginning at the time of foreclosure until it has been sold, transferred to HUD, or otherwise disposed of:

1. While it may not be consistent for all institutions, we believe it is a common practice for institutions to carry the full amount of the receivable from HUD as an "other asset." This includes the principal balance of the foreclosed loan plus unpaid interest (based on HUD's debenture rate) and other HUD-

allowable expenses incurred during and after the foreclosure process. We believe it is appropriate to carry the full amount of the receivable from HUD as an "other asset." Although there are conditions required to be met before a property is conveyed to HUD, based on our experience, it is very rare for these conditions not to be met. We can reasonably expect claims to be paid by HUD. If this receivable were characterized as OREO rather than a receivable from HUD, it is unclear if unpaid interest or expenses related to the OREO would be capitalized, even as a receivable or "other asset." Typically unpaid interest and legal expenses are not capitalized for assets characterized as OREO. Most unpaid interest and other expenses are allowed for reimbursement by HUD, and the amounts can be substantial. If institutions were required to expense these items and then reflect income at a later date when the HUD claim is paid, it could result in undesirable income statement fluctuations. In addition, there would be increased administrative burden in tracking the HUD receivable if it were split into different components (e.g. property value, receivable for HUD-allowed expenses, etc.).

2. It is unclear what amount would be carried as OREO: lower of recorded investment or net realizable value, principal balance of the loan, or amount realizable from HUD including allowable interest and expenses? If reported as OREO, are institutions required to obtain acquisition appraisals for the HUD-guaranteed properties? The cost of an acquisition appraisal is an expense we currently do not incur on HUD loans, and would be an unnecessary expenditure. If the goal is consistent reporting, we recommend you clarify what amount should be reported as OREO, and also address reporting for the related HUD-allowed interest and expenses.

3. The TFR report does not provide a place to report amounts wholly or partially guaranteed by the U.S. Government for OREO. The disclosure on Schedule PD referred to above does not address amounts reported as OREO. The financial risk associated with administering foreclosed HUD loans is far less than the risk associated with non-guaranteed OREO. In the absence of a separate TFR line for reporting the amount of OREO wholly or partially guaranteed by the U.S. Government, we believe the reporting would be misleading to users of the TFR.

4. Given the lower degree of risk related to HUD guaranteed properties, we believe there should be a lower capital risk weight for foreclosed properties that are HUD insured. We recommend separate reporting of OREO (or "other assets") that are wholly or partially guaranteed by the U.S. Government, with a capital risk weight more representative of the lower level of risk.

Thank you for this opportunity to provide comments. If you have any questions, please contact me at (505) 291-3006 or at russ.cummins@charterco.com.

Sincerely,

Russell Cummins
Executive Vice President
Chief Financial Officer

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