NCBANKERS
NORTH CAROLINA BANKERS ASSOCIATION

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DELIVERED VIA E-MAIL

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

Docket No. 05-21
regs.comments@occ.treas.gov

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

Docket No. OP-1246
regs.comments@federalreserve.gov

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

comments@fdic.gov

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

Docket No. 2005-56
regs.comments@ots.treas.gov

Re: Proposed Interagency Guidance on Nontraditional Mortgage Products
70 Fed. Reg. 249, 77249 (December 29, 2005)

Ladies and Gentlemen:

The North Carolina Bankers Association (NCBA) appreciates the opportunity to submit these comments in response to the proposed Interagency Guidance on Nontraditional Mortgage Products. Our membership includes all 145 banks, savings institutions, and trust companies headquartered or doing business in North Carolina. Although the NCBA is supportive of many aspects of this rather complex and multifaceted proposal, we view the proposed guidance with concern given that it includes a number of potentially burdensome provisions and has some implementation issues.

Generally, the guidance sets out risk management and consumer protection practices that should be followed when a financial institution offers loan products such as "interest-only" mortgages and "payment option" adjustable-rate mortgages. It addresses the factors to consider when

setting loan terms and underwriting standards, the development and implementation of written policies to control risk and monitor portfolio characteristics, and consumer protection disclosures and considerations.

Starting with the issue of potential implementation, it should be noted that this proposal is one of two recently issued proposals in the lending context. The other proposal was published in January and relates to concentrations in commercial real estate lending. The proposals demonstrate the agencies' concerns that industry underwriting standards are being eroded at the same time that the real estate market is showing signs of cooling in some markets. While those concerns are understandable from a safety and soundness perspective, the NCBA is troubled by the one-size-fits-all approach that is being discussed and questions whether the proposals could have the unintended effect of exacerbating the risk of loan losses in the near term. Careful, measured implementation would be essential to avoid a chilling effect on the availability of credit and corresponding damage to the real estate market.

Another issue of concern is the plan to revise customer disclosure notices. Bankers are frustrated by the ever-increasing disclosure requirements with which they must comply. The disclosures are expensive to produce and countless forests worth of paper are consumed to produce them, only to wind up being disposed of without having ever been read by consumers. Any plan to add yet another series of disclosures should also include a corresponding plan to review existing disclosure requirements to determine which ones are not worthwhile and can be eliminated or consolidated. Consumers, and bankers for that matter, are suffering from information overload and measures need to be taken to pare back the volume. In addition, model disclosure language should be made available to financial institutions to the greatest extent possible whenever changes occur. This would reduce time demands on bank employees seeking to implement the guidance and would allow consumers to better compare products.

Turning to the issue of loan terms and underwriting standards, the proposals under discussion are consistent with current practices in many respects. Conservative, well-run institutions currently perform similar analyses; however, the NCBA is concerned that the agencies' approach may be too prescriptive. Furthermore, unless loan qualification standards are also imposed upon nonbank lenders, financial institutions will be placed at a competitive advantage. Nonbank lenders are driving much of the perceived relaxation in underwriting standards and this imbalance should be reviewed.

With regard to the proposals on portfolio and risk management practices, the guidance sets out an extensive list of policies that must be written, concentration limits that must be developed, and monitoring and reporting systems that have to be adopted. Although such practices have the potential to improve aggregate risk management at some banks, the NCBA believes that the agencies should consider scheduling outreach sessions with bankers to better gauge their concerns about these changes. We anticipate that the time demands placed upon bank employees charged with implementing the guidance will be substantial and costs will be incurred to update monitoring software.

For these reasons, we ask that the agencies proceed carefully after considering all of these variables. Thank you.

If you have any questions, then please contact us.

Sincerely,

Nathan R. Batts
Associate Counsel