National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

VIA EMAIL

January 8, 2009

Re: Proposed Interagency Appraisal and Evaluation Guidelines
RIN 3133-AD38

To All Concerned:

I submit the following comments in regard to the proposed "Guidelines". My experience includes 23 years in the appraisal industry as a fee appraiser, a senior bank reviewer, and a bank chief appraiser. To be clear: these are my personal comments, not those of my employer. In what follows, I put forth three general comments followed by comments on specific sections of the proposed Guidelines.

General Comments

1. Old versus New Guidelines

The proposed Guidelines are an updated and somewhat expanded version of prior Agency guidelines and bulletins. I am disappointed by the lack of real "teeth" in the document, especially in light of recent events in financial markets and the lack of regulation that got us here. In cases where guideline topics were added or expanded upon (Evaluations, reviewing of Appraisals and Evaluations, applying market value discounts for construction/leasing, and construction financing values, for example), the discussions lack careful and comprehensive development.

Throughout the proposed Guidelines, the word "should" is overused. It implies most of the proposed Guidelines are merely "suggestions" and that compliance is discretionary. In many cases, using the words "shall" or "must" would show that the Agencies are in fact requiring such outcomes. I note there is no shortage of the word "required" in discussions of the five appraisal requirements (p11-p12). FIRREA has many other requirements not verbalized as such in the proposed Guidelines.

The proposed Guidelines "emphasize the importance" of certain structures (independence, a review function, for example). I believe the Agencies should clarify whether these "important" structures are required or merely suggested. The proposed Guidelines also reference the "importance" of sound portfolio monitoring principles. However, as discussed below, portfolio monitoring suggestions (or requirements) do not belong in the proposed Guidelines.

The proposed Guidelines "remind" institutions that an appraiser's credential is not the sole measure of competence and that appraisers need to comply with the Agencies' appraisal regulations (p12). Using the term "required" with respect to the latter "reminder" is "'nuf said" as far as I'm concerned. "Reminder" admonishments are condescending. The proposed Guidelines also "remind" institutions that, as reliance on the real estate for repayment becomes more important, there is an increased need for knowing the value (p14). Again, portfolio management topics do not belong in the proposed Guidelines.

2. Co-mingling the Discussions of Appraisals and Evaluations

The prior guidelines offered little guidance with respect to the preparation of Evaluations. The proposed Guidelines diminish this gap in a way that is consistent with the Agencies' stated intent. On page 16, the proposed Guidelines requested comment on "the appropriateness of risk management expectations and controls in the evaluation process including those discussed in Appendix B". Although I appreciate the expanded discussion, I am troubled by aspects of the proposed Guidelines in regard to Evaluations.

Despite the inclusion of an "Evaluation" option in the "Appraisals" subparts of FIRREA, I believe detailed discussions and standards regarding Evaluations should be tied to the Agencies' asset management, risk management, and/or credit guidelines and should not be commingled with those for Appraisals. The two products have different levels of credibility; often serve different (albeit related) purposes; and the persons preparing and reviewing these products are typically located in different functional areas of an institution. The two products are "related" in that both provide estimates of collateral value. However, in all other ways, they are different enough that discussing them together could mislead a reader to believe they could be substitutes.

Licensed and certified appraisers are precluded from providing Evaluations, as defined, because the suggested "standards" for Evaluations do not meet USPAP requirements for producing a credible appraisal. Generally, if an Evaluation is prepared internally or obtained from a third-party, an institution's appraisal personnel would not be involved.

My experience with banks large and small is that they have written appraisal policies that give lip service to the topic of Evaluations because FIRREA juxtaposes Appraisals and Evaluations in its text. However, bank appraisal personnel (internal or contracted third-party) deal with appraisals and reviews. Evaluations are typically ordered or prepared by credit, underwriting, or asset management personnel (or brokers) yet explicit standards for such are not often found in banks' credit/asset management policies. Diligence with regard to Evaluations often "falls through the cracks".

What I find most problematic is that, throughout the proposed Guidelines, Evaluations are discussed on a par with Appraisals. The proposed Guidelines imply that an Evaluation is a reasonable substitute for an Appraisal, especially in statements such as "...an institution should obtain more detailed evaluations for higher risk real estate-related financial transactions, or as its portfolio risk increases. A more detailed evaluation may be necessary for certain transactions..." (p34). Listed as examples of higher-risk transactions are: high LTV loans, atypical properties, properties located outside the institution's typical market, and transactions or borrowers that indicate unusual concern. The proposed Guidelines do not require (or even suggest) that an institution elevate the valuation product to an Appraisal for "higher risk" transactions. In fact, nowhere do the proposed Guidelines really discuss the relative credibility levels of Appraisals and Evaluations. I strongly believe that, in many situations, the appropriate choice will be to obtain an Appraisal, even when only an Evaluation is required.

3. Regulatory Oversight of Financial Institutions

I believe much, not all, of the cause of the current financial crisis is due to insufficient regulatory oversight of financial institutions. This includes the lack of oversight for certain unregulated financial activities. The big picture is that, no matter what type of endeavor is considered, greedy persons will find ways to exploit a system for personal gain. Where people's health, safety, and financial viability are at stake, it is government's responsibility to provide sufficient oversight and consequences to minimize the harm of hurtful activities and inappropriate behavior.

Eight or so years ago, federal regulation of financial institutions began to diminish. Regulators I knew personally were told to "look the other way" with regard to certain types of mortgage products. Many Agency staff persons were laid off as the frequency and depth of regulatory examinations were curtailed. The number of unregulated mortgage brokers increased dramatically, eventually transacting the major portion of home loans. This has allowed regulated institutions to "outsource" the appraisal and credit underwriting functions to companies that are not required to maintain appraiser independence. The government's lack of foresight and lax financial regulation allowed ludicrous underwriting practices and the mushrooming of loan derivative and insurance products, many of which are unregulated. The result of all this is now being felt around the world.

The point I'm trying to make is that revising and clarifying the guidelines for federally related financial transaction appraisals is all well and good, but positive results will only come about if oversight and enforcement are fully integrated as parts of a strong and comprehensive regulatory system.

<u>Comments on Specific Content</u>

The following items refer to specific sections of the proposed Guidelines.

a. (p20) With regard to purchase transactions, I believe institutions should not be permitted to withhold the complete and detailed terms of the proposed transaction (including a copy of the sale contract). If information is withheld, the appraiser would be in violation of the USPAP requirement to fully report the property history explicitly including for-sale listings, offers, and contracts. To even suggest that an institution should "protect" a professional, independent appraiser from such "influence" is insulting.

b. (p20 and p37) I am troubled by the special permissions given to small institutions relative to the independence of collateral valuation and loan production processes. First of all, I question whether such small institutions should be making real estate loans if they are so limited in terms of staff knowledge and experience. Just as appraisers with limited specific experience must seek out increased expertise for competence, institutions could be required to seek independent third-party reviewers. My overriding concern is that, for small institutions, I see significant potential for a loan officer to pressure an underwriter, for example, to select a specific appraiser and/or to accept an appraisal report.

c. (p21-p22) I find the paragraph related to selecting the appraiser wholly inadequate. Prior Agency publications have put forth much clearer, stronger guidelines and requirements on this very topic. The proposed Guidelines' use of certain words is troubling; i.e., an institution "must directly" engage an appraiser but for an Evaluation, an institution "should" independently select the person. The last sentence in the top paragraph on page 22 should be rewritten as the meaning is unclear.

d. (p23) The mention of a "state-certified or licensed appraiser" is misplaced. AVMs should be address in this context under the fifth appraisal requirement discussed on page 28.

e. (p28) The discussion of appraisals for financing construction or renovation only references prospective market values as of the date the project is expected to be completed and stabilized. The proposed Guidelines do not mention the need for hypothetical values of the completed and stabilized property as of the current date. Both valuation scenarios are defined and discussed in USPAP. Federal agencies, such as Fannie Mae and Freddie Mac, require "hypothetical" values and do not permit the "trending" of appraised values to a future date. This portion of the proposed Guidelines needs significant revision.

f. (p31-p34) The Evaluations sections are not well developed. Much of the discussion is credit/portfolio management related and does not belong in the proposed Guidelines. As noted, the repeated use of the word "should" softens the degree of necessary diligence. On page 33, the proposed Guidelines state photos of the property should be included. Elsewhere, reference is made to the institution's need to determine whether a property inspection and photos should be included. In cases of subsequent transactions, I believe an Evaluation should address the current property value versus that in the origination and subsequent appraisal(s).

g. (p34) The proposed Guidelines permit acceptance of an appraisal from an unregulated financial services institution. The broader issues here should be thoroughly reconsidered. Limiting this permission or, barring that, increasing the level of regulation or required diligence would be an improvement. At one of my prior places of employment, the bank inadvertently accepted an appraisal engaged by a financial services institution that turned out to be owned by the borrower. I find the Glossary's "definition" of financial services institution to be unnecessarily vague.

Thank you for the opportunity to comment on the proposed Guidelines.

Sincerely,

D Davisson

Diane Davisson