



FEDERAL RESERVE BANK
OF DALLAS

ROBERT D. McTEER, JR.
PRESIDENT
AND CHIEF EXECUTIVE OFFICER

June 21, 1993

DALLAS, TEXAS 75222

Notice 93-67

TO: The Chief Executive Officer of each member bank and others concerned in the Eleventh Federal Reserve District

SUBJECT

Request for Public Comment on a Proposed Interagency Rule to Amend the Real Estate Appraisal Standards in Regulations H and Y

DETAILS

The Federal Reserve Board is requesting public comment on an interagency proposed rule to amend real estate appraisal standards that are contained in the Board's Regulations H (Membership of State Banking Institutions in the Federal Reserve System) and Y (Bank Holding Companies and Change in Bank Control).

The proposed amendments would increase to \$250,000 the threshold level at or below which appraisals are not required, would expand and clarify existing exemptions to appraisal requirements, and would identify additional circumstances when appraisals are not required. The proposal would also amend existing requirements governing appraisal content and appraiser independence.

The Board must receive comments by July 19, 1993. Comments should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All comments should refer to Docket No. R-0803.

ATTACHMENT

A copy of the Board's notice as it appears on pages 31878-92, Vol. 58, No. 106, of the Federal Register dated June 4, 1993, is attached.

MORE INFORMATION

For more information, please contact Daniel Kirkland at (214) 922-6256. For additional copies of this Bank's notice, please contact the Public Affairs Department at (214) 922-5254.

Sincerely yours,

Robert D. McTeer, Jr.

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 34**

[Docket No. 93-10]

FEDERAL RESERVE SYSTEM**12 CFR Part 225**

[Regulation Y; Docket No. R-0803]

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 323**

RIN 3064-AB05

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Parts 545, 563, 564**

[Docket No. 93-78]

RIN 1550-AA64

Real Estate Appraisals

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (collectively the agencies) solicit comments on proposed amendments to the agencies' regulations regarding appraisals of real estate, adopted pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The proposed amendments would increase to \$250,000 the threshold level at or below which appraisals are not required pursuant to Title XI, expand and clarify existing exemptions to the Title XI appraisal requirement, and identify additional circumstances when appraisals are not required under Title XI. In addition, the proposal would amend existing requirements governing appraisal content and appraiser independence.

The agencies are proposing these amendments as a result of experience gained from implementing their appraisal regulations. The amendments are an effort to serve federal financial and public policy interests by reducing regulatory burden while requiring Title

XI appraisals when such appraisals enhance the safety and soundness of financial institutions or otherwise further public policy. If adopted, this proposal would reduce the number of real estate-related financial transactions that require the services of an appraiser and simplify the preparation of appraisals for federally related transactions.

DATES: Comments must be received by July 19, 1993.

ADDRESSES: Comments should be directed to:

Office of the Comptroller of the Currency

Communications Division,
Comptroller of the Currency, 9th Floor,
250 E Street, SW, Washington, DC
20219, Attention: Docket No. 93-10.
Comments will be available for public
inspection and photocopying at the
same location.

Board of Governors of the Federal Reserve System

Comments, which should refer to Docket No. R-0803, may be mailed to Mr. William Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments addressed to Mr. Wiles may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of these hours. Both the mail room and control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B-1122 between 9:00 a.m. and 5:00 p.m., except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

Federal Deposit Insurance Corporation

Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to room F-402, 1776 F Street, NW., Washington, DC on business days between 8:30 a.m. and 5 p.m. [FAX number (202) 898-3838]. Comments will be available for inspection and photocopying in room 7118, 550 17th Street, NW., Washington DC between 9 a.m. and 4:30 p.m. on business days.

Office of Thrift Supervision

Send comments to Director, Information Services Division, Office of Communications, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention

Docket No. 93-78. These submissions may be hand delivered to 1700 G Street, NW, from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX number (202) 906-7755. Submissions must be received by 5:00 p.m. on the day they are due in order to be considered by the OTS. Late-filed, misaddressed or misidentified submissions will not be considered by the OTS in this rulemaking. Comments will be available for inspection at 1776 G Street, NW, Level 1C.

FOR FURTHER INFORMATION CONTACT:**Office of the Comptroller of the Currency (OCC)**

Thomas E. Watson, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5170; or Horace G. Sneed, Senior Attorney, or F. John Podvin, Jr., Attorney, (202) 874-4460, Bank Operations and Assets Division.

Board of Governors of the Federal Reserve System (Board)

Roger Cole, Deputy Associate Director, (202) 452-2618, Rhoger H. Pugh, Assistant Director, (202) 728-5883, Stanley B. Rediger, Supervisory Financial Analyst (202) 452-2629, or Virginia M. Gibbs, Supervisory Financial Analyst, (202) 452-2521, Division of Banking Supervision and Regulation; or Gregory A. Baer, Senior Attorney (202) 452-3236 or Christopher Bellini, Attorney (202) 452-3269, Legal Division.

Federal Deposit Insurance Corporation (FDIC)

Robert F. Mialovich, Associate Director, (202) 898-6918, James D. Leitner, Examination Specialist, (202) 898-6790, Division of Supervision; or Walter P. Doyle, Counsel, (202) 898-3682, Legal Division.

Office of Thrift Supervision (OTS)

Robert Fishman, Program Manager, Credit Risk, Supervision Policy, (202) 906-5672; Deirdre G. Kwartunas, Policy Analyst, Supervision Policy, (202) 906-7933; Ellen J. Sazzman, Attorney, Regulations and Legislation Division, Chief Counsel's Office, (202) 906-7133.

SUPPLEMENTARY INFORMATION:**I. Background**

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 3331 *et seq.*, directs the agencies to publish appraisal rules for federally related transactions within the jurisdiction of each agency. The purpose of the

legislation is to provide that federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. See 12 U.S.C. 3331.

Section 1121(4) of FIRREA, 12 U.S.C. 3350(4), defines a federally related transaction as a real estate-related financial transaction that is regulated or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser. A real estate-related financial transaction is defined as any transaction that involves: (i) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities. See 12 U.S.C. 3350(5) (FIRREA section 1121(5)).

In July and August of 1990, the agencies published regulations to meet the requirements of Title XI of FIRREA. See 55 FR 34684 (August 24, 1990) (OCC); 55 FR 27762 (July 5, 1990) (Board); 55 FR 33879 (August 20, 1990) (FDIC); 55 FR 34532 (August 23, 1990) (OTS).

In their appraisal regulations, the agencies identify categories of real estate-related financial transactions that do not require the services of an appraiser in order to protect federal financial and public policy interests or to satisfy principles of safe and sound banking. These real estate-related financial transactions are not federally related transactions under the statutory and regulatory definitions. Accordingly, they are subject to neither Title XI of FIRREA nor those provisions of the agencies' regulations governing appraisals.

In March and April of 1992, the OCC, FDIC and OTS amended their appraisal regulations. Those amendments increased from \$50,000 to \$100,000 the threshold at or below which the services of an appraiser would not be required.¹

¹ When the other agencies initially adopted a threshold level of \$50,000, the Board, which had already adopted a \$100,000 threshold, sought comment on (1) whether it should conform its level to those of the other agencies, and (2) the appropriate minimum standards for State-licensed appraisers. Because the other agencies then raised their levels to \$100,000 and the States have adopted

The amendments also identified additional real estate-related financial transactions that do not require the services of an appraiser. See 57 FR 12190 (OCC) (April 9, 1992); 57 FR 9043 (FDIC) (March 16, 1992); 57 FR 12698 (OTS) (April 13, 1992).

In December 1992, Congress provided that the agencies may set a threshold level below which the services of state certified or licensed appraisers are not required in connection with federally related transactions if they determine in writing that the threshold does not represent a threat to the safety and soundness of financial institutions. See Housing and Community Development Act of 1992, Public Law 102-550, sec. 954, 106 Stat. 3672, 3894 (1992) (amending 12 U.S.C. 3341).

As part of the burden reduction study mandated by section 221 of the Federal Deposit Insurance Corporation Improvement Act of 1991, Public Law 102-242, 105 Stat. 2236, 2305, the agencies reviewed their appraisal regulations to determine if additional changes could be made to reduce regulatory burden consistent with federal financial and public policy interests and the safety and soundness of regulated institutions. As part of this process, the agencies requested comments from the public on ways to reduce burden.

II. Proposed Amendments

As a result of the comments and their own experience, the agencies believe that the requirement of a Title XI appraisal can impose additional direct and indirect costs on both the lender and the borrower. One result of this increased cost may be a restriction on the availability of credit. In some cases, appraisals may prove so expensive that they may make a sound small- or medium-sized business loan uneconomical.

While in many cases an appraisal is a necessary part of a sound loan-underwriting decision process, the agencies believe that the statutory flexibility should be used and that the agencies should not require Title XI appraisals where they impose significant costs without promoting to a significant extent the safety and soundness of regulated institutions or furthering the purposes of Title XI of FIRREA. Accordingly, the agencies are proposing to amend their regulations to clarify and expand the circumstances in which a Title XI appraisal is not required.

appropriate licensing standards, the Board took no further action on its proposed rulemaking.

It is also the agencies' experience that the current minimum standards applicable to federally related transactions and requirements concerning the independence of appraisers can be simplified without significantly affecting the reliability of Title XI appraisals. Therefore, the agencies are proposing to amend their regulations to eliminate regulatory appraisal standards that parallel standards in the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. In addition, the agencies are proposing to amend their regulations concerning appraiser independence to permit regulated institutions to use appraisals prepared for other financial services institutions.

The agencies believe that federal financial and public policy interests can be served by making several changes to provisions of their appraisal regulations that identify: (i) When Title XI appraisals are not required; (ii) when an evaluation is needed for real estate-related financial transactions that do not require Title XI appraisals; and (iii) when an agency may require a Title XI appraisal to address safety and soundness concerns. These changes should reduce regulatory burden, improve credit availability and serve federal financial and public policy interests without threatening the safety and soundness of financial institutions.

The agencies also propose to simplify compliance with regulatory requirements for both appraisers and users of the appraisals by changing provisions of their regulations that govern: (i) Publication of the Uniform Standards of Professional Appraisal Practice; (ii) minimum appraisal standards; (iii) unavailable information; (iv) institution developed additional appraisal standards; and (v) appraiser independence. The proposed changes should reduce costs without affecting the reliability of appraisals used in connection with federally related transactions.

A. Transactions That Do Not Require Appraisals

The proposed amendments identify new categories of transactions for which Title XI appraisals will not be required and expand and clarify existing categories of transactions that do not require Title XI appraisals.

1. Increase the Threshold from \$100,000 to \$250,000

The agencies propose to increase to \$250,000 the threshold level at or below which the services of an appraiser

would not be required in connection with real estate-related financial transactions.

The current threshold level is set at \$100,000. See 12 CFR 34.43(a)(1) (OCC); 12 CFR 225.63(a)(1) (Board); 12 CFR 323.3(a)(1) (FDIC); and 12 CFR 564.3(a)(1) (OTS).

The agencies do not regularly collect data on rates of loss by the size of loans because of the excessive burden to the industry associated with the collection of such data. The agencies note, however, that loss information for commercial real estate loans based on a small sample of lending institutions was considered by the Office of Management and Budget (OMB) in a 1992 report² to Congress prepared pursuant to section 472 of Federal Deposit Insurance Corporation Improvement Act of 1991. That report, which the agencies will include in the rulemaking record, suggests it may be appropriate to approach an increase in the threshold above \$100,000 with some caution due to higher loss rates associated with larger commercial loans.

Since the establishment of a \$100,000 threshold level, the agencies have not found any evidence to indicate that there has been a significant increase in the defaults on real estate-related loans of \$100,000 or less. Furthermore, the agencies believe that faulty estimates of value of real estate collateral are not a major cause of losses in connection with transactions below \$100,000.

The agencies believe that the low loss experience with the \$100,000 threshold stems from the fact that loans secured by 1-to-4 family residential real estate comprise the majority of transactions falling below the \$100,000 threshold. These loans have not been the cause of major credit losses in the banking system. Data for all commercial banks as of December 1992 show that the net loan charge-off rate³ for 1-to-4 family residential real estate loans was 0.20 percent compared to 1.26 percent for all loans. The net loan charge-off rate for savings associations was 0.22 percent for 1-to-4 family residential real estate loans compared to 0.51 percent for all loans.

The agencies believe that an increase in the threshold level from \$100,000 to \$250,000 for banks and thrifts would not represent a threat to the safety and soundness of financial institutions. Moreover, the agencies believe that

federal financial and public policy interests would continue to be protected if the proposed increase were adopted.

The agencies believe that the majority of loans below a \$250,000 threshold level would continue to be loans secured by 1-to-4 family residential real estate. Thus, the agencies do not believe that loans of \$100,001 to \$250,000 would pose significantly greater risks to financial institutions than similar loans below the existing threshold. The agencies believe that in the event such losses do occur, the \$250,000 threshold would protect the deposit insurance funds and the safety and soundness of financial institutions.

Separately, the agencies are proposing an amendment stating that each agency reserves the right to require a regulated institution to obtain a Title XI appraisal whenever the agency believes it is necessary to address safety and soundness concerns. As a matter of policy, the OTS intends to require problem institutions or institutions in a troubled condition to obtain appraisals for transactions of more than \$100,000.

2. The "Abundance of Caution" Provision

The agencies propose to amend their regulations to clarify and expand the scope of the exemption for real estate liens taken in an "abundance of caution."

The agencies' appraisal regulations currently provide that an appraisal is not required when a lien on real estate has been taken as collateral solely through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of a lien. See 12 CFR 34.43(a)(2)(i) (OCC); 12 CFR 225.63(a)(2) (Board); 12 CFR 323.3(a)(2) (FDIC); and 12 CFR 564.3(a)(2)(i) (OTS).

The agencies' experience with implementing the appraisal regulations indicates that the existing abundance of caution exemption has been interpreted too narrowly. The additional requirement that the transaction would have been made on the same terms absent the lien on real estate collateral has significantly reduced the number of cases in which the exemption applies. To emphasize the broader scope of the abundance of caution exemption, the agencies propose to delete the word "solely" from the current exemption. The agencies also propose to delete the language requiring that the terms of the transaction not be more favorable to the borrower than they would have been in the absence of the real estate lien. To qualify for this exemption, other sources

of repayment or collateral must support the decision to extend credit.

The application of the proposed amendment is illustrated by the following examples.

Example 1: A business with an established cash flow seeks a loan from a regulated institution to purchase an adjacent property for expansion. As a common business practice, the institution takes a lien against real estate whenever available for greater comfort. However, the institution's analysis determines that the current income from the business and personal property available as collateral support the decision to extend credit without knowing the real estate's market value. During loan negotiations, the institution offers to make the loan on slightly better terms for the borrower if it receives a lien on real estate. The borrower accepts the offer and provides the additional real estate collateral.

The regulated institution may reasonably conclude that the lien on the real estate was taken in an abundance of caution because the current income from the business and personal property taken as collateral support the decision to extend credit. Therefore, no appraisal would be required.

Example 2: The owner of a shop seeks a term loan from a regulated institution for modernization of its facilities. The institution determines that other sources of repayment and collateral do not sufficiently support the decision to extend credit without taking a lien on the real estate and knowing the real estate's market value. Therefore, in order to prudently extend credit to the borrower, the institution needs an appraisal.

The regulated institution should conclude that the real estate lien has not been taken in an abundance of caution because the other sources of repayment and collateral do not support the decision to extend credit without knowing the real estate's market value. Assuming no other exemption is applicable to this transaction, a Title XI appraisal would be required.

3. Loans Not Secured by Real Estate

The agencies propose to adopt a uniform exemption for transactions that are not secured by real estate.

Currently, the appraisal regulations of the OCC, FDIC and OTS exempt these transactions. See 12 CFR 34.43(a)(2)(ii) (OCC); 12 CFR 323.3(a)(7) (FDIC); and 12 CFR 564.3(a)(2)(ii) (OTS). However, there are minor differences between the provisions adopted by the OCC and OTS and the provision in the FDIC's rule. Currently, the Board's appraisal

² *De Minimis Levels for Commercial Real Estate Appraisals*, Report to Congress, Office of Management and Budget (August 1992).

³ The net loan charge-off rate is determined by taking the dollar amount of gross losses, subtracting the amount recovered, and dividing the result by the average of outstanding loans.

regulation does not specifically exempt these transactions.

The proposed amendment would clarify that a regulated institution does not need a Title XI appraisal when it makes a loan that is not secured by real estate even though the borrower uses the loan proceeds to purchase or invest in real estate. For example, this exemption would be applicable to transactions in which the borrower provides collateral for the loan other than real estate or qualifies for unsecured credit.

For transactions that would be covered by this proposed exemption, the real estate has no direct effect on the regulated institution's decision to extend credit because the institution has no legal interest in the real estate as collateral. Therefore, the agencies believe that federal financial and public policy interests would not be served by requiring lenders and borrowers to incur the cost of obtaining Title XI appraisals in connection with these transactions.

4. Liens for Purposes Other Than the Real Estate's Value

The agencies are proposing a new exemption for transactions in which a regulated institution takes a lien on real estate for a purpose other than the value of the real estate.

Regulated institutions frequently take real estate liens to protect legal rights to other collateral and not because of the value of the real estate as an individual asset. For instance, in lending associated with logging operations, regulated institutions typically take a lien against the real estate upon which the timber stands to ensure their access to the timber. Similarly, where the collateral for a loan is a business or manufacturing facility, a regulated institution may take a lien against the land and improvements in order to be able to sell the entire business or facility as a going concern if the borrower defaults.

As defined in the agencies' regulations, an appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of real estate. See 12 CFR 34.42(a) (OCC); 12 CFR 225.62(a) (Board); 12 CFR 323.2(a) (FDIC); and 12 CFR 564.2(a) (OTS). When the market value of the real estate as an individual asset is not part of the regulated institution's decision to take a lien against real estate, no purpose is served by requiring the institution to obtain an appraisal.

5. Real Estate-Secured Business Loans Less Than \$1 Million

The agencies are proposing a new exemption for business loans with a value of less than \$1 million where the sale of, or rental income derived from, the real estate taken as collateral is not the primary source of repayment. In connection with this proposed exemption, the agencies also are proposing to amend their regulations to define "business loan."

The agencies believe that the cost and delay associated with obtaining an appraisal has had an adverse impact on the types of small- and medium-sized business lending that would be exempted by this provision. In the experience of the agencies, the appraisal requirement has adversely affected the ability of small- and medium-sized businesses to obtain credit. In effect, the cost of an appraisal may have impeded small- and medium-sized businesses from receiving working capital, operating loans and other business-related credits that otherwise would be consistent with prudent banking practice. The agencies do not believe that this was the intent of Title XI of FIRREA, and do not believe that federal public policy interests are served by requiring a Title XI appraisal in these cases.

The agencies are proposing an exemption designed to serve the public policy interest in small- and medium-sized business lending while ensuring that the safety and soundness of financial institutions would be protected. The proposed exemption would apply only to transactions involving business loans with a value less than \$1 million. This would help ensure that the transactions would generally involve small- and medium-sized businesses and that any losses associated with exempting these transactions from the Title XI appraisal requirement would not generally pose a threat to the safety and soundness of financial institutions.

In addition, the exemption would only apply to transactions where the sale of, or rental income derived from, the real estate is not the primary source of repayment for the loan. For exempt transactions, lenders would need to document the ability of the business to repay the loan from business operations. Where the value of the real estate is closely linked to the ability of the borrower to repay the business loan, an appraisal would be required unless another exemption is applicable to the transaction.

In connection with this exemption, the agencies also propose to amend their

regulations to define "business loan" as a loan or extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship (including an individual engaged in farming), or other business entity. This definition excludes individuals, individual trusts, associations, and unincorporated organizations.

The application of the proposed amendment is illustrated by the following examples.

Example 1: The owner of a shop seeks a term loan for less than \$1 million from a regulated institution. The loan will be repaid with income derived from operations. The regulated institution would not extend credit to the borrower without a lien against the real estate.

However, because the loan is less than \$1 million and the sale of, or rental income derived from, the real estate is not the primary source of repayment, a Title XI appraisal would not be required for this transaction under this exemption.

Example 2: A company acquires an adjacent parcel of land to construct an office building. The company seeks a loan of less than \$1 million from a regulated institution to provide construction financing and a permanent mortgage for the office building. The company intends to lease part of the building and will use the rental income to help repay the loan.

The lender estimates that operations of the business would contribute approximately 45 percent of the funds necessary to repay the loan and rental income approximately 55 percent.

The regulated institution should conclude that rental income derived from the real estate serves as the primary source of repayment for the loan. Therefore, assuming no other exemption is applicable to the transaction, a Title XI appraisal would be required.

6. Leases

The agencies are not proposing any substantive change to the exemption for operating leases. However, as a result of including new exemptions in the regulations, this exemption is being renumbered.

7. Requirements for Renewals, Refinancings, and Other Subsequent Transactions

The agencies propose to amend and clarify the exemption for renewals, refinancings, and other transactions resulting from an existing extension of credit to simplify the conditions under which the exemption applies.

The agencies' appraisal regulations currently provide that an appraisal is not required for a subsequent transaction that results from a maturing extension of credit if: (i) The borrower has performed satisfactorily according to the original terms; (ii) no new monies are advanced other than as previously agreed; (iii) the credit standing of the borrower has not deteriorated; and (iv) there has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection. See 12 CFR 34.43(a)(4) (OCC); 12 CFR 225.63(a)(4) (Board); 12 CFR 323.3(a)(4) (FDIC); and 12 CFR 564.3(a)(4) (OTS). Under the proposed amendment, the use of this exemption no longer would be conditioned on meeting all of these requirements.

The proposed amendment would permit regulated institutions to renew or refinance any existing extension of credit and extend additional funds without obtaining a new Title XI appraisal if the institution's collateral protection would not be threatened as a result of the transaction. The borrower's past performance and ability for future performance are significant factors to be considered as a matter of prudent banking practice when determining whether to renew or refinance an existing extension of credit. However, in the absence of a material change in market conditions or the condition of the property that threaten the institution's collateral protection, no purpose is served by obtaining a new Title XI appraisal. For example, a loan originally extended with a low loan-to-value ratio could be renewed without a Title XI appraisal, even though market conditions have deteriorated, if the regulated institution concludes that the new loan-to-value ratio would remain low and, therefore, its collateral protection would not be threatened.

The proposed amendment also would permit a regulated institution to advance additional funds to the borrower up to a level that would not threaten the institution's collateral protection. However, if the advance of additional funds alone, or in combination with a deterioration in market conditions, results in the regulated institution's collateral protection being threatened, a new Title XI appraisal would then be required.

8. Transactions Involving Real Estate Notes

The agencies are proposing to amend and clarify the current text of the regulation that exempts purchases of real estate-secured loans.

The agencies' appraisal regulations currently allow regulated institutions to purchase loans or interests in pools of loans secured by real estate provided that each loan has an appraisal that conforms to the appraisal regulation if it was applicable at the time the loan was originated. See 12 CFR 34.43(a)(5) (OCC); 12 CFR 225.63(a)(5) (Board); 12 CFR 323.3(a)(5) (FDIC); and 12 CFR 564.3(a)(5) (OTS).

The proposed amendment would clarify that a regulated institution may engage in certain transactions involving real estate-secured notes without obtaining a new appraisal if the underlying real estate loan was originated prior to the effective date of the appropriate agency's regulation, or the underlying real estate loan was originated after the effective date of the appropriate agency's appraisal regulation and is supported by an appraisal that met the requirements of the appropriate agency's appraisal regulation either at the time of origination or subsequent sale.

The agencies do not believe that new appraisals are required for these transactions in order to protect federal financial and public policy interests or the safety and soundness of financial institutions. In addition, requiring new appraisals may restrict the market for purchases, sales, and investments in real estate-secured loans by increasing costs for those transactions.

9. Transactions Insured or Guaranteed by a United States Government Agency or United States Government Sponsored Agency

The agencies are proposing to amend their appraisal regulations to adopt an exemption for transactions that are insured or guaranteed by a United States government agency or government sponsored agency.

The appraisal regulations of the OCC, FDIC, and OTS currently provide that loans insured or guaranteed by an agency of the United States government do not require appraisals. See 12 CFR 34.43(a)(6) (OCC); 12 CFR 323.3(a)(6) (FDIC); and 12 CFR 545.32(b) and 563.170(c)(1)(iv) (OTS).

The OCC and the FDIC are proposing to amend this provision in their regulations by deleting the requirement that the transaction be supported by an appraisal that conforms to the requirements of the insuring or guaranteeing agency. In order to receive the insurance or guarantee, the transaction must meet all underwriting requirements of the insurer or guarantor, including real estate appraisal or evaluation requirements. Therefore, it is unnecessary to require regulated

institutions to ensure compliance with appraisal requirements of the federal insurer or guarantor.

The OTS also is proposing to adopt this provision as part of its appraisal regulation in 12 CFR Part 564 and, if adopted, will modify its current regulations to be consistent with this provision.

The Board is proposing to adopt a new exemption for transactions insured or guaranteed by a United States government agency or government sponsored agency.

10. Transactions That Meet the Qualifications for Sale to a United States Government Agency or Government Sponsored Agency

The agencies are proposing to adopt an exemption for transactions that meet the qualifications for sale to a United States government agency or government sponsored agency.

Currently, the appraisal regulations of the OCC, FDIC and OTS provide that appraisals in connection with transactions involving 1-to-4 family residential properties need not comply with certain appraisal standards if the appraisals conform to the appraisal standards approved by the Federal National Mortgage Association (Fannie Mae) or Federal Home Loan Mortgage Corporation (Freddie Mac). See 12 CFR 34.44(b) (OCC); 12 CFR 323.4(b) (FDIC); and 12 CFR 564.8(d)(1) (OTS).

The proposed amendment would permit a regulated institution to originate, hold, buy or sell transactions that meet the qualifications for sale to any United States government agency or government sponsored agency without obtaining a Title XI appraisal. The agencies believe that the appraisal standards of U.S. government agencies or government sponsored agencies established to maintain a secondary market in loans are sufficient to protect federal financial and public policy interests in the loans those government or government sponsored agencies purchase. The agencies also believe that compliance with these standards will protect the safety and soundness of financial institutions. By referring to any U.S. government agency or U.S. government sponsored agency, the proposed amendment would include transactions that meet the qualifications for sale to entities such as the College Construction Loan Insurance Association and Federal Agricultural Mortgage Corporation, as well as the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation.

The agencies believe that permitting regulated institutions to follow these

standardized appraisal requirements, without the necessity of obtaining an additional appraisal or appraisal supplement, will increase institutions' ability to buy and sell these loans and their liquidity.

If the proposed amendment is adopted, the OCC, FDIC and OTS would delete their current provisions. The Board has no similar provision.

11. Transactions by Regulated Institutions as Fiduciaries

The agencies are proposing a new exemption for transactions in which a regulated institution is acting in a fiduciary capacity and is not required to obtain an appraisal under other law.

The agencies do not believe that a Title XI appraisal should be required when a regulated institution engages in a real estate-related financial transaction in a fiduciary capacity, unless other federal, state or common law requires an appraisal for those transactions. Losses as a result of these transactions would not, absent some negligence by the institution, be incurred by the institution. Thus, exempting these transactions from the Title XI appraisal requirement should not adversely affect the safety and soundness of financial institutions. When an appraisal is required under other law, it should conform to the requirements of the agencies' regulations.

12. Transactions Where the Services of an Appraiser Are Not Necessary To Protect Federal Financial and Public Policy Interests

As a result of their experience in implementing their regulations, the agencies recognize that it is impossible to identify all transactions for which the services of an appraiser should not be required under Title XI of FIRREA. The specific exemptions of the proposed regulation describe the major categories of transactions that would not require appraisals. However, the agencies are proposing to retain the authority to determine in a given case that the services of an appraiser are not required in order to protect federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution.

13. Definition of Real Estate

The Board is proposing to incorporate the definition of real estate and real property currently employed by the other agencies. That definition specifically excludes mineral rights, timber rights, growing crops, water rights, and similar interests.

B. Use of Evaluations

The agencies are proposing minor changes to the provisions of their regulations governing the use of evaluations.

Currently, the OCC, Board and OTS require evaluations for all transactions that do not require appraisals. See 12 CFR 34.43(a) (OCC); 12 CFR 225.63(a) (Board); and 12 CFR 564.3(a) (OTS). The FDIC's regulation provides that supervisory guidelines, general banking practices or other prudent standards may require an appropriate valuation of real property collateral. See 12 CFR 323.3(a). The agencies believe that the effect of these provisions for some regulated institutions may have been to require evaluations for certain real estate-related financial transactions when the evaluations did not assist in protecting the safety and soundness of the institutions.

The agencies propose to amend this provision to state that evaluations should be obtained for some, but not all, real estate-related financial transactions that do not require Title XI appraisals. Under the proposed amendment, regulated institutions would be expected to obtain an evaluation whenever necessary to assist the institution in its decision to enter into the real estate-related financial transaction. These include transactions below the threshold level, business loans below \$1 million where real estate is not the primary source of repayment, and transactions resulting from an existing extension of credit.

C. Appraisals to Address Safety and Soundness Concerns

The agencies are proposing to amend their regulations to clarify that each agency may require Title XI appraisals to address safety and soundness concerns. Under this provision, the agencies could require appraisals where real estate-related financial transactions present greater-than-normal risk to individual institutions. For example, an agency may require a problem institution or an institution in troubled condition to obtain appraisals for transactions below the proposed threshold level.

D. Publication of USPAP

The agencies also are seeking comment on alternatives to the current practice of publishing the Uniform Standards of Professional Appraisal Practice (USPAP) as an appendix to each agency's appraisal regulation.

Section 1107 of FIRREA states that appraisal standards shall be prescribed in accordance with procedures set forth

in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

As part of the effort to simplify their regulations, the agencies are considering three alternatives for satisfying the statutory requirement to publish appraisal standards applicable to federally related transactions.

Under Alternative I, the applicable provisions of the USPAP would be repeated in the agencies' regulations. Under Alternative II, the provisions of the USPAP would be included in the agencies' rules through incorporation by reference. Under both Alternatives I and II, a failure to comply with the USPAP in any particular transaction would be a violation of the regulation. Therefore, if an agency wanted to pursue an enforcement or remedial action against a regulated institution, the agencies would only have to show that the USPAP was not followed.

In addition, under Alternatives I and II the agencies would have to comply with the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553, in order to adopt any substantive changes to the USPAP promulgated by the Appraisal Standards Board of the Appraisal Foundation. This could mean that the version of the USPAP used by the agencies and regulated institutions could be outdated. Institutions, therefore, would not be able to use the substantive changes of the current version of the USPAP until the agencies could amend their regulations in accordance with notice and comment rulemaking procedures.

Under Alternative III, the USPAP would not be a part of the agencies' regulations. Adopting this approach would mean that a failure to follow the USPAP would not constitute a violation of the regulation. Therefore, if an agency wanted to pursue an enforcement or remedial action against a regulated institution, it would have to demonstrate that the failure to follow the USPAP in the particular situation violated generally accepted appraisal standards.

Under this alternative, the agencies would not have to republish changes to the USPAP adopted by the Appraisal Standards Board. References to the USPAP would not be to a particular edition. Instead, references would be assumed to always mean the most current edition.

E. Minimum Standards

The agencies propose to amend their regulations to reduce the number of minimum appraisal standards applicable to Title XI appraisals for federally related transactions from 14 to four and eliminate the current prohibition on the use of the USPAP Departure Provision in connection with federally related transactions.

Title XI of FIRREA states that each federal financial institutions regulatory agency shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency. These rules shall require, at a minimum that: (i) real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and (ii) that such appraisals shall be written appraisals.

Under Title XI, each agency may require compliance with additional standards if it makes a determination in writing that such additional standards are necessary in order to properly carry out its statutory responsibilities.

At the time the agencies began drafting their appraisal regulations, the Appraisal Standards Board was in the process of amending its appraisal standards. Because of uncertainty about the content of the standards that would be promulgated by the Appraisal Standards Board, and the interpretation of those standards, the agencies included within their appraisal regulations 13 minimum standards that paralleled existing or proposed USPAP standards. Compliance with these 13 standards was required in addition to compliance with the USPAP.

The agencies also prohibited the use of the USPAP Departure Provision in connection with federally related transactions. The Departure Provision permits an appraiser to prepare an appraisal without complying with certain recommended provisions of the USPAP if the appraisal report is not rendered misleading.

The agencies have gained considerable experience with the Appraisal Standards Board and its appraisal standards and believe that it is no longer necessary to include all the additional standards in their appraisal regulations. The agencies also believe that the Departure Provision of the USPAP may appropriately be used in connection with federally related transactions.

In addition to the standard involving the USPAP, the agencies are proposing

to adopt three minimum standards that would require Title XI appraisals to: (i) be written; (ii) set forth a market value as defined in the regulation; and (iii) be performed by a certified or licensed appraiser in accordance with the regulation.

Although the agencies are proposing to streamline their appraisal regulations by eliminating standards in their current regulations that parallel USPAP requirements, the agencies are requesting specific comment on whether other minimum standards should be required.

F. Elimination of Provision on Unavailable Information

The agencies are proposing to delete the current provision that requires appraisers to disclose and explain when information necessary to the completion of an appraisal is unavailable. See 12 CFR 34.44(c) (OCC); 12 CFR 225.64(b) (Board); 12 CFR 323.4(c) (FDIC); and 12 CFR 564.4(b) (OTS).

The USPAP currently requires appraisers to disclose and explain the absence of information necessary to completion of an appraisal that is not misleading. See USPAP Standard Rule 2-2(k). Therefore, the elimination of this provision would not result in a substantive change in the requirements applicable to appraisals for federally related transactions if the agencies continue to require, as a minimum standard, that appraisals conform to standards contained in the USPAP, either as adopted and published by the agencies or incorporated by reference into the agencies' regulations.

Elimination of this provision could result in a change in the enforceability of this requirement if the agencies adopt Alternative III, which would establish a minimum appraisal standard that requires appraisals to conform to generally accepted appraisal standards as evidenced by the USPAP, rather than adopting Alternatives I and II, which would establish a standard that requires compliance with the USPAP.

Under Alternative III, a regulated institution that accepted an appraisal in which the appraiser failed to disclose and explain the absence of information necessary to completion of an appraisal that is not misleading would be in violation of the regulation only if generally accepted appraisal standards required the absence of necessary information to be disclosed and explained. While the regulated institution's failure to comply with the USPAP would not be a violation of the regulation, the agencies would rely on USPAP Standard Rule 2-2(k) as evidence of what constitutes generally

accepted appraisal standards in determining whether the regulated institution met the minimum standard.

G. Elimination of Provision on Additional Appraisal Standards

The agencies propose to delete the current provision confirming that the agencies' adoption of minimum appraisal standards for federally related transactions does not prevent a regulated institution from requiring appraisers to comply with additional standards. See 12 CFR 34.44(d) (OCC); 12 CFR 225.64(c) (Board); 12 CFR 323.4(d) (FDIC); and 12 CFR 564.4(c) (OTS).

A regulated institution may ask the appraisers it hires to provide any additional information the institution may require in connection with the preparation of an appraisal. The agencies believe that regulated institutions retain the authority to require appraisers to provide additional information to satisfy the institutions' business needs.

H. Appraiser Independence

The agencies are proposing to amend and clarify their appraisal regulations to permit use of appraisals prepared for financial services institutions other than institutions subject to Title XI of FIRREA.

The agencies' current appraisal regulations provide that fee appraisers must be engaged by the regulated institution or its agent. An exception to this requirement is permitted if the appraiser is directly engaged by another institution that is subject to Title XI of FIRREA.

The current provision was adopted to help ensure that appraisers would not be subject to conflicts of interest as a result of having been engaged by borrowers. However, the agencies believe that the current provision is too restrictive. It requires a regulated institution to obtain a new appraisal if the borrower originally sought the loan from an institution that is not subject to Title XI of FIRREA and is not an agent of the regulated institution. There also has been uncertainty about the meaning of agent in these cases.

The agencies propose to permit a regulated institution to use an appraisal that was prepared for any financial services institution, including mortgage bankers. The appraiser would not be allowed to have a direct or indirect interest, financial or otherwise, in the property or the transaction, and must have been directly engaged by the non-regulated institution. Further, the regulated institution would be required to ensure that the appraisal conforms to

the requirements of the regulation and is otherwise acceptable.

III. Public Comment

The agencies are requesting public comment on all aspects of their proposed rules as well as specific comment on certain proposals. All comments are voluntary and no individual or institution is required to provide any of the information requested below, nor must comments be provided in any particular format.

The agencies are requesting comment in Questions 1 through 9 concerning the threshold level, loss history for certain transactions, effect of the proposed changes on credit availability, effect of the proposed threshold on housing loans sold in the secondary market, proposed exemption for business loans,

proposed exemption for sales to government agencies or government sponsored agencies, and the effect of the current regulation on the cost and time needed to complete certain transactions.

In addition, the agencies request comment on whether the four proposed minimum standards for appraisals are sufficient to serve the purposes of Title XI. In particular, the agencies request comment on whether the regulations (or other agency guidance) should incorporate any of the current standards, the standards discussed in questions 10 through 13 below, or any other standard.

It would assist the agencies in reviewing the comments if commenters referred to the numbers listed below when responding to those requests for comment. Further, commenters are

asked to clearly identify the exemption or provision they are discussing.

All commenters are advised that, pursuant to the Administrative Procedure Act, all information provided to the agencies will be available for public inspection.

A. Specific Comment

1. Threshold Level

Should the agencies increase the threshold level below which an appraisal is not required from \$100,000 to \$250,000, and why? Would a threshold higher than \$250,000 be appropriate, and why?

2. Loss Experience

(a) Threshold Level.

Real estate-secured loans and size of loans	Number of loans	Outstanding principal amount of loans (12/31/92)	Loss on loans (annual net charge-offs) (12/31/92)
Loans secured by 1-to-4 family residential real estate:			
Loans greater than \$250,000
Loans of \$250,000 or less
Loans secured by commercial real estate:			
Loans greater than \$250,000
Loans of \$250,000 or less

(b) Business Loans Less than \$1 Million Where Sale of, or Rental Income Derived from, the Real Estate Taken as Collateral is Not the Primary Source of Repayment.

Real estate-secured loans	Number of loans (12/31/92)	Outstanding principal amount of loans (12/31/92)	Loss on loans (annual net charge-offs) (12/31/92)
All real estate-secured business loans
Real estate-secured business loans less than \$1 million that are not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment for the loan

3. Credit Availability

(a) To what extent, if any, will an increase in the threshold level to \$250,000 affect the availability of credit for real estate-secured loans below \$250,000? Where possible, please provide quantitative data on the expected effect on lending.

(b) To what extent, if any, would the proposed amendment exempting real estate-secured business loans (including farm loans) of less than \$1 million that are not dependent upon the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment, affect the availability of credit for small- and medium-sized businesses? Where

possible, please provide quantitative data on the expected effect on lending to small- and medium-sized businesses.

(c) To what extent, if any, would the proposed amendments affect the availability of credit for community development lending? Where possible, please provide quantitative data on the expected effect on community development lending.

4. Effect of the Proposed \$250,000 Threshold on Housing Loans Sold in the Secondary Market

To what extent, if any, do you sell your housing loans on the secondary market, e.g., to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation? How often

is an appraisal required regardless of the size of the loan in these cases? What effect, if any, would an increase in the threshold to \$250,000 have on these types of housing loans? Where possible, please provide quantitative data.

5. Business Loans Less Than \$1 Million Secured by Real Estate That are Not Dependent on the Sale of, or Rental Income Derived From, the Real Estate Taken as Collateral as the Primary Source of Repayment

(a) Should the exemption for real estate-secured business loans be based on the extent to which the primary source of repayment of the loan is dependent upon the sale of, or rental

income derived from, the real estate collateral? If yes, at what point should reliance on the sale of, or rental income derived from, the real estate taken as collateral be considered the "primary source" of repayment, and why? If no, what are alternative criteria that would be consistent with safety and soundness concerns, and why?

(b) Is the \$1 million limit on this exemption appropriate? If not, should the limit be higher, lower, or eliminated, and why?

6. Transactions that Meet the Qualifications for Sale to a United States Government Agency or Government Sponsored Agency

The current proposal includes an exemption for transactions that meet the qualifications for sale to a United States government agency or government sponsored agency. Should this exemption apply to any U.S.

government agency or government sponsored agency or should it be limited to certain agencies, and why?

7. Effect of Title XI Appraisals by Certified or Licensed Appraisers

Based on historical data and the most recent experience under the existing appraisal regulations, does the requirement for a Title XI appraisal by a certified or licensed appraiser affect loan performance and ultimate loss experience:

(a) For real estate-secured loans below \$250,000?

(b) For business loans of \$1 million or less secured by real estate that are not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment?

8. Effect of the Current Regulation on the Cost of Making Real Estate-Secured Loans

To what extent, if any, has the current appraisal regulation affected the cost of real estate loans to the lender or borrower:

(a) For transactions of \$250,000 or less?

(b) For business loans of \$1 million or less secured by real estate that are not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment?

9. Effect of the Current Regulation on Delay in Making Real Estate-Secured Loans

To what extent, if any, has the current appraisal regulation affected the time necessary to complete a real estate loan:

(a) For transactions of \$250,000 or less?

(b) For business loans of \$1 million or less secured by real estate that are not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment?

10. Data and Analysis on Revenues, Expenses and Vacancies

The agencies request comment on whether it would be beneficial to require, by regulation, that appraisals include, where applicable, data and analysis on revenues, expenses and vacancies as well as on current market conditions.

11. Analyze and Report Deductions and Discounts

The agencies request comment on whether the regulations should specifically require an analysis and report of appropriate deductions and discounts for proposed construction, partially leased buildings, submarket leases, and tract developments with unsold units. The USPAP does not specifically require that an appraiser analyze and report this data in the appraisal.

12. Separate Valuation of Personal Property

The agencies request comment on whether it would be beneficial to require that personal property, fixtures and intangibles included in the appraisal be identified and separately valued, and the effect of their value on the overall value estimate be discussed.

13. Reconciliation of Three Approaches to Value

The agencies request comment on whether it would be beneficial to require that an appraisal include a reconciliation of the three approaches to market value (i.e., the direct sales, income and cost approaches) and explain the elimination of any method not used by the appraiser.

Regulatory Flexibility Act Statement

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC, the Board, the FDIC, and the OTS, hereby independently certify that the proposed rule is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. However, the proposed rule, if adopted, is expected to result in reduced burden and costs for some small entities.

For federally related transactions, Title XI of FIRREA requires financial

institutions which are regulated by the OCC, the Board, the FDIC, or the OTS, to use appraisals prepared in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. Since the USPAP standards only codify appraisal practices that are usual and customary in the appraisal industry, adoption of this regulation should not result in a material departure from existing practice by regulated institutions or cause a significant economic impact on a substantial number of small entities.

OCC and OTS Executive Order Statement

The OCC and the OTS have independently determined that this proposed rule does not constitute a "major rule" within the meaning of Executive Order 12291 and Treasury Department Guidelines. Accordingly, a Regulatory Impact Analysis is not required on the grounds that, if adopted, this proposed rule, exclusive of those effects attributable to requirements imposed by Title XI of FIRREA, (i) would not have an annual effect on the economy of \$100 million or more, (ii) would not result in a major increase in the cost of financial institution operations or governmental supervision, and (iii) would not have a significant adverse effect on competition (foreign and domestic), employment, investment, productivity or innovation, within the meaning of the executive order.

For federally related transactions, Title XI requires the financial institutions supervised by the OCC or the OTS to obtain appraisals prepared in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. Since these standards only codify appraisal practices and procedures that are usual and customary in the appraisal industry, they should not cause a significant departure from current appraisal practices by regulated institutions, or a substantial effect on the economy.

OCC Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Comptroller of the Currency, Legislative, Regulatory, and

International Activities, Attention: 1557-0190, 250 E Street, SW., Washington, DC 20219, with a copy to the Office of Management and Budget, Paperwork Reduction Project 1557-0190, Washington, DC 20503.

The collection of information in this proposed regulation is in 12 CFR 34.44. This information is required by the OCC to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. National banks will use this information in determining whether and on what terms to enter into federally related transactions, such as making loans secured by real estate. The OCC will use this information in its examination of national banks to ensure that national banks undertake real estate-related financial transactions in accordance with safe and sound banking principles.

The likely recordkeepers are for-profit institutions.

The estimated annual burden per recordkeeper varies from 0 hours to in excess of 100 hours, depending on individual circumstances, with an estimated average of 34.5 hours.

Estimated number of recordkeepers: 3,600.

Board Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, with a copy to the Office of Management and Budget, Paperwork Reduction Project 7100-0250, Washington, DC 20503.

The collection of information in this proposed regulation is in 12 CFR part 225. This information is required by the Federal Reserve System to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. State member banks will use this information in determining whether and on what terms to enter into federally related transactions, such as making loans secured by real estate. The Federal Reserve System will use this information in its examination of State member banks and bank holding companies to ensure that they undertake real estate-related financial transactions in accordance with safe and sound banking principles.

The likely recordkeepers are for-profit institutions.

The estimated annual burden per recordkeeper varies from 0 hours to in excess of 100 hours, depending on individual circumstances, with an estimated average of 25.1 hours.

Estimated number of recordkeepers: 1,183.

FDIC Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Assistant Executive Secretary (Administration), room F-400, 550 17th Street, NW., Washington, DC 20429, with a copy to the Office of Management and Budget, Paperwork Reduction Project 3064-0103, Washington, DC 20503.

The collection of information in this proposed regulation is in 12 CFR part 323. This information is required by the FDIC to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. State nonmember banks will use this information in determining whether and on what terms to enter into federally related transactions, such as making loans secured by real estate. The FDIC will use this information in its examination of State nonmember banks to ensure that they undertake real estate-related financial transactions in accordance with safe and sound banking principles.

The likely recordkeepers are for-profit institutions.

The estimated annual burden per recordkeeper varies from 0 hours to in excess of 100 hours, depending on individual circumstances, with an estimated average of 20.0 hours.

Estimated number of recordkeepers: 7,393.

OTS Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550), Washington, DC 20503 with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

The collection of information in this notice of proposed rulemaking is found at 12 CFR 564.4. Each savings association will use the information in connection with determining whether and upon what terms to enter into a federally related transaction, such as making a loan on commercial real estate or purchasing property for its own operation. The OTS will use the information in its examination of savings associations to ensure that extensions of credit by the associations, which are collateralized by real estate, and permissible investments in real estate are undertaken in accordance with safe and sound banking principles.

The likely recordkeepers are for-profit institutions.

The estimated annual burden per recordkeeper varies from 0 to over 100 hours, depending on individual circumstances, with an estimated average of 59 hours. This is a reduction from the current average estimated burden per recordkeeper of 78.7 hours. The estimated number of recordkeepers is 2,200.

List of Subjects

12 CFR Part 34

Mortgages, National banks, Real estate appraisals, Real estate lending standards, Reporting and recordkeeping requirements.

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 323

Banks, Banking, Mortgages, Real estate appraisals, Reporting and recordkeeping requirements, State nonmember insured banks.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 564

Appraisals, Real estate appraisals, Reporting and recordkeeping requirements, Savings associations.

COMPTROLLER OF THE CURRENCY**Authority and Issuance**

For the reasons set out in the joint preamble, part 34 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 34—REAL ESTATE LENDING AND APPRAISALS

1. The authority citation for part 34 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a, 371, 1701j-3, 1828(o), 3331 *et seq.*

2. In § 34.42, existing paragraphs (d) through (l) are redesignated as paragraphs (e) through (m) and a new paragraph (d) is proposed to be added to read as follows:

§ 34.42 Definitions.

* * * * *

(d) *Business loan* means a loan or extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship, or other business entity.

* * * * *

2. In § 34.43, paragraph (a) is revised, paragraphs (b) through (d) are redesignated as paragraphs (c) through (e), and a new paragraph (b) is added to read as follows:

§ 34.43 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

(1) The transaction value is \$250,000 or less;

(2) A lien on real estate has been taken as collateral in an abundance of caution;

(3) The transaction is not secured by real estate;

(4) A lien on real estate has been taken for purposes other than the real estate's value;

(5) The transaction is a business loan that:

(i) Has a transaction value of less than \$1 million; and

(ii) Is not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment;

(6) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(7) The transaction results from an existing extension of credit, provided that there has been no obvious or

material deterioration in market conditions or physical aspects of the property that threaten the institution's real estate collateral protection;

(8) The transaction:

(i) Involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real property, including mortgaged-backed securities; and

(ii) Is supported by an appraisal that meets the requirements of this subpart for each loan or interest in a loan, pooled loan, or real property interest originated after August 24, 1990;

(9) The transaction is insured or guaranteed by a United States government agency or United States government sponsored agency;

(10) The transaction meets all of the qualifications for sale to a United States government agency or United States government sponsored agency;

(11) The regulated institution is acting in a fiduciary capacity and is not required to obtain an appraisal under other law; or

(12) The Office of the Comptroller of the Currency determines that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution.

(b) *Evaluations and other appraisals.* Transactions for which the services of a State certified or licensed appraiser are not required under paragraphs (a)(1), (a)(5) or (a)(7) of this section nevertheless should have an appropriate evaluation of real property collateral that is consistent with agency guidance. The Office of the Comptroller of the Currency reserves the right to require an appraisal under this subpart whenever the agency believes it is necessary to address safety and soundness concerns.

* * * * *

3. Section 34.44, is revised to read as follows:

§ 34.44 Minimum appraisal standards.

For federally related transactions, all appraisals shall, at a minimum:

ALTERNATIVE I FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation;

ALTERNATIVE II FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal

Standards Board of the Appraisal Foundation, 1993 Edition (as adopted December 8, 1992), which is specifically incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 (the USPAP is available from the Appraisal Foundation, 1029 Vermont Avenue, NW., Suite 900, Washington, DC 20005-3517);

ALTERNATIVE III FOR PARAGRAPH (a)

(a) Conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation;

(b) Be written;

(c) Set forth a market value as defined in this subpart; and

(d) Be performed by State licensed or certified appraisers in accordance with requirements set forth in this subpart.

4. In § 34.45, paragraph (b) is revised to read as follows:

§ 34.45 Appraiser independence.

* * * * *

(b) *Fee appraisers.* (1) If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transaction.

(2) A regulated institution also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if:

(i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and

(ii) The regulated institution determines that the appraisal conforms to the requirements of this subpart and is otherwise acceptable.

Dated: May 25, 1993.

Eugene A. Ludwig,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

For the reasons outlined in the joint preamble, the Board of Governors proposes to amend 12 CFR part 225 as set forth below:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for 12 CFR part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3907, 3909, 3310, and 3331-3351.

2. Section 225.62 is amended by redesignating paragraphs (g) through (k)

as paragraphs (i) through (m), redesignating paragraphs (d) through (f) as paragraphs (e) through (g), and adding new paragraphs (d) and (h) to read as follows:

§ 225.62 Definitions.

(d) *Business loan* means a loan or extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship, or other business entity.

(h) *Real estate or real property* means an identified parcel or tract of land, with improvements, and includes easements, rights of way, undivided or future interests, or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights, or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

3. Section 225.63 is amended by revising the section heading and paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (c) and (d), and adding a new paragraph (b) to read as follows:

§ 225.63 Appraisals required; transactions requiring a State-certified or State-licensed appraiser.

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

(1) The transaction value is \$250,000 or less;

(2) A lien on real estate has been taken as collateral in an abundance of caution;

(3) The transaction is not secured by real estate;

(4) A lien on real estate has been taken for purposes other than the real estate's value;

(5) The transaction is a business loan that:

(i) Has a transaction value of less than \$1 million; and

(ii) Is not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment;

(6) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(7) The transaction results from an existing extension of credit, provided that there has been no obvious or material deterioration in market conditions or physical aspects of the property that threaten the institution's real estate collateral protection;

(8) The transaction:

(i) Involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real property, including mortgaged-backed securities; and

(ii) Is supported by an appraisal that meets the requirements of this subpart for each loan or interest in a loan, pooled loan, or real property interest originated after August 9, 1990;

(9) The transaction is insured or guaranteed by a United States government agency or United States government sponsored agency;

(10) The transaction meets all of the qualifications for sale to a United States government agency or United States government sponsored agency;

(11) The regulated institution is acting in a fiduciary capacity and is not required to obtain an appraisal under other law; or

(12) The Board determines that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution.

(b) *Evaluations and other appraisals.* Transactions for which the services of a State certified or licensed appraiser are not required under paragraphs (a)(1), (a)(5) or (a)(7) of this section nevertheless should have an appropriate evaluation of real property collateral that is consistent with agency guidance. The Board reserves the right to require an appraisal under this subpart whenever the agency believes it is necessary to address safety and soundness concerns.

4. Section 225.64 is revised to read as follows:

§ 225.64 Appraisal standards.

For federally related transactions, all appraisals shall, at a minimum:

ALTERNATIVE I FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation;

ALTERNATIVE II FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation, 1993 Edition (as adopted December 8, 1992), which is specifically incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51

(the USPAP is available from the Appraisal Foundation, 1029 Vermont Avenue, NW., Suite 900, Washington, DC 20005-3517);

ALTERNATIVE III FOR PARAGRAPH (a)

(a) Conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation;

(b) Be written;

(c) Set forth a market value as defined in this subpart; and

(d) Be performed by State licensed or certified appraisers in accordance with requirements set forth in this subpart.

5. Section 225.65 is amended by revising paragraph (b) to read as follows:

§ 225.65 Appraiser independence.

(b) *Fee appraisers.* (1) If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transaction.

(2) A regulated institution also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if:

(i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and

(ii) The regulated institution determines that the appraisal conforms to the requirements of this subpart and is otherwise acceptable.

Dated: May 28, 1993.

William W. Wiles,

Secretary of the Board.

FEDERAL DEPOSIT INSURANCE CORPORATION

Authority and Issuance

For the reasons set out in the joint preamble, part 323 of subchapter B of Chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 323—APPRAISALS

1. The authority citation for part 323 is revised to read as follows:

Authority: 12 U.S.C. 1818, 1819 [“Seventh” and “Tenth”], and 3331-3352.

2. Section 323.2 is amended by redesignating paragraphs (d) through (l) as paragraphs (e) through (m) and adding a new paragraph (d) to read as follows:

§ 323.2 Definitions.

(d) *Business loan* means a loan or extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship, or other business entity.

3. Section 323.3 is amended by revising the section heading and paragraph (a), revising the phrase in paragraph (d) "paragraphs (b) and (c) of this section" to read "paragraphs (c) and (d) of this section", redesignating paragraph (d) as paragraph (e), and redesignating paragraphs (b) and (c) as paragraphs (c) and (d) and adding a new paragraph (b) to read as follows:

§ 323.3 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

(1) The transaction value is \$250,000 or less;

(2) A lien on real estate has been taken as collateral in an abundance of caution;

(3) The transaction is not secured by real estate;

(4) A lien on real estate has been taken for purposes other than the real estate's value;

(5) The transaction is a business loan that:

(i) Has a transaction value of less than \$1 million; and

(ii) Is not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment;

(6) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(7) The transaction results from an existing extension of credit, provided that there has been no obvious or material deterioration in market conditions or physical aspects of the property that threaten the institution's real estate collateral protection;

(8) The transaction:

(i) Involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real property, including mortgaged-backed securities; and

(ii) Is supported by an appraisal that meets the requirements of this part for each loan or interest in a loan, pooled loan, or real property interest originated after September 19, 1990;

(9) The transaction is insured or guaranteed by a United States government agency or United States government sponsored agency;

(10) The transaction meets all of the qualifications for sale to a United States government agency or United States government sponsored agency;

(11) The regulated institution is acting in a fiduciary capacity and is not required to obtain an appraisal under other law; or

(12) The FDIC determines that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution.

(b) *Evaluations and other appraisals.* Transactions for which the services of a State certified or licensed appraiser are not required under paragraphs (a)(1), (a)(5) or (a)(7) of this section nevertheless should have an appropriate evaluation of real property collateral that is consistent with agency guidance. The FDIC reserves the right to require an appraisal under this part whenever the agency believes it is necessary to address safety and soundness concerns.

4. Section 323.4 is revised to read as follows:

§ 323.4 Minimum appraisal standards.

For federally related transactions, all appraisals shall, at a minimum:

ALTERNATIVE I FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation;

ALTERNATIVE II FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation, 1993 Edition (as adopted December 8, 1992), which is specifically incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 (the USPAP is available from the Appraisal Foundation, 1029 Vermont Avenue, NW., suite 900, Washington, DC 20005-3517);

ALTERNATIVE III FOR PARAGRAPH (a)

(a) Conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation;

(b) Be written;

(c) Set forth a market value as defined in this part; and

(d) Be performed by State licensed or certified appraisers in accordance with requirements set forth in this part.

5. Section 323.5 is amended by revising paragraph (b) to read as follows:

§ 323.5 Appraiser independence.

(b) *Fee appraisers.* (1) If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transaction.

(2) A regulated institution also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if:

(i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and

(ii) The regulated institution determines that the appraisal conforms to the requirements of this part and is otherwise acceptable.

By order of the Board of Directors.

Dated at Washington, DC this 26th day of May, 1993.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

OFFICE OF THRIFT SUPERVISION

Authority and Issuance

Accordingly, for the reasons set forth in the joint preamble, the Office of Thrift Supervision hereby proposes to amend chapter V, title 12 of the Code of Federal Regulations, as set forth below:

SUBCHAPTER C—REGULATIONS FOR FEDERAL SAVINGS ASSOCIATIONS

PART 545—OPERATIONS

1. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

2. Section 545.32 is amended by revising the first sentence of paragraph (b)(2) to read as follows:

§ 545.32 Real estate loans.

(b) * * *

(2) *Appraisals.* A Federal savings association may make a real estate loan only after an appraiser has submitted a signed appraisal of the security property consistent with the requirements of part 564 of this chapter. * * *

3. Section 545.103 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 545.103 Suretyship.

* * * * *

(b) * * * If real estate, the value must be established by a signed appraisal consistent with the requirements of part 564 of this chapter. * * *

* * * * *

**SUBCHAPTER D—REGULATIONS
APPLICABLE TO ALL SAVINGS
ASSOCIATIONS**

PART 563—OPERATIONS

4. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1468, 1817, 1818, 3806; 42 U.S.C. 4106; Pub. L. 102-242, sec. 306, 105 Stat. 2236, 2335 (1991).

5. Section 563.170 is amended by revising paragraph (c)(1)(iv) to read as follows:

§ 563.170 Examinations and audits; appraisals; establishment and maintenance of records.

* * * * *

(c) * * *

(1) * * *

(iv) One or more written appraisal reports, prepared at the request of the lender or its agent and for the lender's use, and signed prior to the approval of such application (except in the case of an approval conditioned upon obtaining an appraisal) that satisfies the requirements of part 564 of this chapter: *Provided, however,* That nothing in this paragraph (c)(1)(iv) shall apply to property improvement loans, as that term is used in 24 CFR 200.167, insured by the Federal Housing Administration for which that agency does not require an appraisal or certification of valuation;

* * * * *

PART 564—APPRAISALS

6. The authority citation for part 564 is revised to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828(m), 3331 *et seq.*

7. Section 564.2 is amended by redesignating paragraphs (d) through (l) as paragraphs (e) through (m), respectively, and by adding a new paragraph (d) to read as follows:

§ 564.2 Definitions.

* * * * *

(d) *Business loan* means a loan or extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship, or other business entity.

* * * * *

8. Section 564.3 is amended by revising paragraph (a), redesignating

paragraphs (b) through (d) as paragraphs (c) through (e), and adding a new paragraph (b) to read as follows:

§ 564.3 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

(1) The transaction value is \$250,000 or less;

(2) A lien on real estate has been taken as collateral in an abundance of caution;

(3) The transaction is not secured by real estate;

(4) A lien on real estate has been taken for purposes other than the real estate's value;

(5) The transaction is a business loan that:

(i) Has a transaction value of less than \$1 million; and

(ii) Is not dependent on the sale of, or rental income derived from, the real estate taken as collateral as the primary source of repayment;

(6) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(7) The transaction results from an existing extension of credit, provided that there has been no obvious or material deterioration in market conditions or physical aspects of the property that threaten the institution's real estate collateral protection;

(8) The transaction:

(i) Involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real property, including mortgaged-backed securities; and

(ii) Is supported by an appraisal that meets the requirements of this part for each loan or interest in a loan, pooled loan, or real property interest originated after August 23, 1990;

(9) The transaction is insured or guaranteed by a United States government agency or United States government sponsored agency;

(10) The transaction meets all of the qualifications for sale to a United States government agency or United States government sponsored agency;

(11) The regulated institution is acting in a fiduciary capacity and is not required to obtain an appraisal under other law; or

(12) The Office of Thrift Supervision determines that the services of an appraiser are not necessary in order to protect Federal financial and public

policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution.

(b) *Evaluations and other appraisals.* Transactions for which the services of a State certified or licensed appraiser are not required under paragraphs (a)(1), (a)(5) or (a)(7) of this section nevertheless should have an appropriate evaluation of real property collateral that is consistent with agency guidance. The Office of Thrift Supervision reserves the right to require an appraisal under this part whenever the agency believes it is necessary to address safety and soundness concerns.

* * * * *

9. Section 564.4 is revised to read as follows:

§ 564.4 Minimum appraisal standards.

For federally related transactions, all appraisals shall, at a minimum:

ALTERNATIVE I FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation;

ALTERNATIVE II FOR PARAGRAPH (a)

(a) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation, 1993 Edition (as adopted December 8, 1992), which is specifically incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 (the USPAP is available from the Appraisal Foundation, 1029 Vermont Avenue, NW., suite 900, Washington, DC 20005-3517);

ALTERNATIVE III FOR PARAGRAPH (a)

(a) Conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation;

(b) Be written;

(c) Set forth a market value as defined in this part; and

(d) Be performed by State licensed or certified appraisers in accordance with requirements set forth in this part.

10. Section 564.5 is amended by revising paragraph (b) to read as follows:

§ 564.5 Appraiser independence.

* * * * *

(b) *Fee appraisers.* (1) If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent,

and have no direct or indirect interest, financial or otherwise, in the property or the transaction.

(2) A regulated institution also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if:

(i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and

(ii) The regulated institution determines that the appraisal conforms to the requirements of this part and is otherwise acceptable.

§ 564.8 [Amended]

11. Section 564.8 is amended by removing paragraph (d)(1), by removing the colon following the introductory text of paragraph (d), by revising the

word "Appraisals" to read "appraisals" in paragraph (d)(2), and by removing the paragraph designation (d)(2).

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

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