OCC – RISK MANAGEMENT GUIDANCE FOR HIGHER-LOAN-TO-VALUE LENDING ACTIVITIES IN COMMUNITIES TARGETED FOR REVITALIZATION (NATIONAL BANKS AND FEDERAL SAVINGS ASSOCIATIONS)

I. INTRODUCTION

The Office of the Comptroller of the Currency (OCC) continues to support the efforts of national banks and federal savings associations (collectively, banks) to assist distressed communities targeted for revitalization, stabilization, or redevelopment through responsible residential mortgage lending. The OCC encourages banks to continue to develop responsible, innovative lending strategies intended to meet the credit needs of individual borrowers and support revitalization efforts. These efforts could include residential mortgage lending products for the purchase, refinancing, or rehabilitation of owner-occupied one- to four-family properties, where the loan-to-value (LTV) ratio at the time of origination exceeds 90 percent, and the loan is without mortgage insurance, readily marketable collateral, or other acceptable collateral (higher-LTV loans). Higher-LTV loans should be consistent with safe and sound lending practices, promote fair access to credit and fair treatment of borrowers, and comply with applicable laws and regulations.

The OCC highlights the core lending principles in the bulletin to encourage responsible bank loan products that meet the credit needs of individual borrowers, support community revitalization efforts, operate in a safe and sound manner, and comply with applicable laws.

The OCC encourages banks interested in making higher-LTV loans in communities targeted for revitalization by a federal, state, or municipal governmental entity or agency to:

- refer to the core lending principles in this bulletin when considering making higher-LTV loans.
- discuss plans to offer higher-LTV loans with their OCC supervisory office before implementation, particularly if the offerings constitute substantial deviations from the bank’s existing strategic or business plans.

II. BACKGROUND

The value of collateral can present challenges to banks approving home loans, in part because of supervisory loan-to-value (SLTV) limits, which generally provide that owner-occupied
residential loans with LTVs above 90 percent should have appropriate credit enhancement (for example, mortgage insurance or readily marketable collateral). Staying under a 90 percent LTV or obtaining credit enhancement can be challenging in communities where property values have been negatively affected by distressed sales, short sales, and foreclosures. Further, finding comparable sales for transactions that require appraisals or evaluations can be challenging in communities with minimal sales activity. These factors contribute to buyers of distressed properties experiencing difficulty securing adequate financing to purchase properties and to cover any substantial renovation costs required to make the properties habitable.

In communities working to stabilize home ownership levels and home values, the rehabilitation of abandoned or distressed housing stock is an important component of broader efforts to strengthen communities. Local governments, government-affiliated entities, community-based organizations, financial institutions (including banks), and others have developed creative solutions for some of these challenges. These solutions include strategies for acquiring and rehabilitating properties in communities targeted for revitalization. Community groups, financial institutions (including banks), nonprofit organizations, and state and local entities, including land banks, often work together to develop and implement residential mortgage financing solutions to bring needed lending to economically distressed areas. Examples include providing second-lien loans to finance rehabilitation costs, interest rate discounts, and down payment and closing cost assistance. Additionally, the Federal Housing Administration, Fannie Mae, and Freddie Mac currently offer rehabilitation financing.

Under the Interagency Guidelines for Real Estate Lending, banks should establish internal LTV limits that are consistent with the supervisory guidelines. Existing regulations and guidelines recognize that it may be appropriate in individual cases for banks to make loans in excess of SLTV limits, based on support provided by other credit factors and subject to certain conditions. Existing regulations and guidelines also recognize that banks may provide for prudently underwritten exceptions for creditworthy borrowers whose needs do not fit within the banks’ general lending policies, including LTV limits, on a loan-by-loan basis and under certain conditions.

III. CORE LENDING PRINCIPLES FOR HIGHER-LTV LOANS

The OCC believes that banks can offer higher-LTV loans in communities targeted for revitalization for the purchase, refinancing, or rehabilitation of owner-occupied one- to four-family residential properties, as part of responsible lending strategies intended to support long-term community revitalization. Bank management may refer to the risk management principles outlined in OCC Bulletin 2017-43 regarding new, modified, or expanded bank products and services, as applicable. The following are core lending principles that banks should consider when offering higher-LTV loans:

- Higher-LTV loans should be consistent with safe and sound banking, treat customers fairly, and comply with applicable laws and regulations, including those pertaining to fair lending and prohibitions on unfair, deceptive, or abusive acts or practices.
- Higher-LTV loans and their performance should be effectively monitored, tracked, and managed, including associated credit, operational, compliance, and reputation risks.
- Higher-LTV loans should be underwritten based on sound policies and processes, including guidelines governing the amounts borrowed and the capacity of borrowers to
adequately service the debt, and should be consistent with the Interagency Guidelines for Real Estate Lending.

- Higher-LTV loans should be underwritten consistent with the bank’s standards for the review and approval of exception loans.

Sound policies and processes specific to higher-LTV loans in communities targeted for revitalization would typically include the following:

- Underwriting standards and eligibility criteria consistent with safe and sound banking practices.
- Standards for reviewing and approving higher-LTV loans.
- Portfolio limits for the aggregate amount of higher-LTV loans.
- Loan amounts and repayment terms that
  - align with prudent eligibility and underwriting criteria.
  - promote fair and non-discriminatory treatment of customers.
  - comply with the ability-to-repay standard of Regulation Z and other applicable laws and regulations.
- Appropriate risk management of higher-LTV loans and loan portfolios, including oversight by management and the board.
- Marketing and consumer disclosures that
  - comply with applicable consumer protection laws and regulations, including fair lending laws and regulations.
  - provide information in a transparent, accurate, and customer-friendly manner.
  - generally describe the potential financial impacts on a consumer as well as the marketability of a property securing a higher-LTV loan where the value of the property is and could remain less than the loan amount.

The foregoing Compliance Update is for informational purposes only and does not constitute legal advice. As a reminder, the NBA general counsel is the attorney for the Nebraska Bankers Association, not its member banks. The general counsel is available to assist members with finding resources to help answer their questions. However, for specific legal advice about specific situations, members must consult and retain their own attorney.