



Cunningham & Company
M O R T G A G E B A N K E R S

January 29, 2007

Mr. Mark Pearce
Deputy Commissioner of Banks
State of North Carolina
4309 Mail Center Service
Raleigh, NC 27699-4309

Dear Mr. Pearce:

I am in receipt of the "Proposed Guidance on Non-Traditional Mortgage Product Risks" and wish to comment on behalf of Cunningham & Company. I have been engaged in reviewing the Proposed Guidance at the national level and have met with you previously to discuss our views. I appreciate the opportunity to express my views on the questions enclosed with the guidance and would encourage you to contact me should you wish further discussion.

Are there unique characteristics of non-bank mortgage lenders or mortgage brokers that should be considered in developing and/or applying guidance on non-traditional mortgage loan products?

It is my perception that the guidance was initially issued and intended for depository institutions. On numerous occasions, regulators have expressed concern about increasing risks that federally regulated institutions were assuming as a result of the growth of non-traditional mortgage products. Specifically, the regulators seemed to be concerned about pay-option ARMs and interest-only ARM products. In addition, the use of simultaneous second-lien products with the reduction in borrower equity created increased portfolio risks that heightened concern. The guidance was based in a discussion in safety and soundness for regulated financial institutions. Non-Bank mortgage lenders would appear very different. Obviously such lenders don't have federally or state insured deposits and don't have a mortgage portfolio that would be addressed by safety and soundness issues. We are all interested in assuring that the consumer receives adequate disclosure and that we have provided proper counsel to the customer to insure that the customer understands the mortgage product, but non-bank lenders should not present the same concern from a risk standpoint to a state regulator. These regulations were not intended to prohibit mortgage products, only provide guidance to consider in evaluating risk. I would again encourage you not to prohibit certain products by way of the proposed guidance.

Would this guidance affect your operations? What impact would it have on your compliance systems and costs?

We currently have in place the ability to tract the loan products that we offer and would be in a position to provide to an examiner the volume of each of the non-traditional products provided and the underwriting criteria employed for each product. Assuming that your desire is only to tract the product and to review a sampling of loan products, I don't see that the guidance would impose a hardship on our operations.

Are non-traditional mortgage loans a significant portion of the mortgage lending business here in North Carolina? Are these loans concentrated in particular segments of the marketplace here in North Carolina (e.g. subprime borrowers, urban areas, etc.)?

I don't have statistics for the state, but nationally the use of non-traditional products has grown substantially over the past three to four years. My assumption would be that these products represent more than 30-35% of the market and would be concentrated in both first time homebuyers and subprime borrowers. For our company these products represent approximately 12% of our 2006 production, with less than 5% of the loans being made to subprime borrowers. While the initial intent of stated income or no-doc loans was to make it easier for prime borrowers with good credit histories with significant equity positions in the real estate to obtain mortgage loans without the burden of multiple years of personal or corporate tax returns, over time, these products became available to borrowers with less than prime credit and with little to no equity position in the real estate. The change in guidelines was based on underwriting experience and the performance of loan portfolios over time. Interesting enough, that same portfolio experience is causing lenders to change guidelines, making credit less available. The days of 100% financing to the subprime borrower appear to have disappeared. I believe in the free market and also think the guidance issued is appropriate. If regulators base future examination on the guidance and allow the free market to work, we may well eliminate products that are today of concern. However, we should make sure we do not stifle creativity in mortgage finance as part of the process. Creative products have been responsible for increasing the rate of homeownership in this country. I think that making sure that borrowers are well educated about the product and the risk associated with the product should be a primary focus for both lenders and regulators. Disclosures should be provided early to the consumer and should be clear and easy to understand.

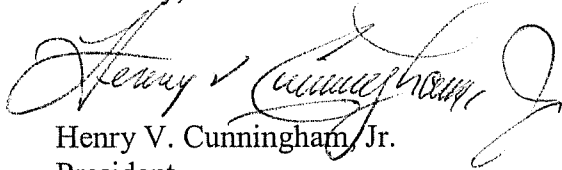
Is the guidance's definition of non-traditional mortgage loans appropriate? Are there other similar loan products that pose similar risks that should be included in this guidance?

I do think the guidance addresses the products that are of concern and the documentation classes that add greater risks. I don't share the same concern of the proposed guidance with reference to interest-only products when the consumer is properly educated and the interest-only period is longer than the initial adjustment. We often make interest-only

products available where the interest only period is ten years. In addition, I am aware of sentiment that hybrid ARMS should also be included in the guidance. I disagree with inclusion of those products. Hybrid ARMS have made homeownership available to many consumers and I don't think the statistics will bear out a significant underwriting risk or performance risk on either the lender or the borrower. At the minimum, inclusion of this class of product without the normal comment period would seem inappropriate.

I appreciate the opportunity to make my comments available and would appreciate the opportunity to meet with you further if you deem appropriate.

Sincerely,

A handwritten signature in cursive script, reading "Henry V. Cunningham, Jr.", written in black ink. The signature is fluid and includes a large, decorative flourish at the end.

Henry V. Cunningham, Jr.
President