

-NAHB Quick Issues Index-

Notice: The following "quick issues index" is being distributed to the NAHB Executive Board and Board of Directors for your easy reference and distribution to local and state HBA members. Please feel free to take this sheet home with you for these and other purposes at your discretion.

1. Financial Services Regulatory Reform – Housing Finance and Fed. Gov. Affairs Committees

- The Wall Street Reform and Consumer Protection Act of 2009 was passed by the House on Dec. 11.
- Throughout debate on the bill, NAHB weighed in on matters of importance to the home building industry; we will continue to press our concerns with legislators as the debate goes forward.
- Key issues of concern include: support for a specific charter for institutions specializing in housing finance and a housing finance focus in any future bank regulatory structure; the future role of the housing GSEs; ensuring that any mortgage lending reforms do not raise mortgage costs or reduce mortgage innovation; ensuring that the creation of a Consumer Financial Protection Agency does not add another layer of regulation making it more expensive for banks to offer products and services to borrowers; ensuring that any requirement for loan originators to maintain a portion of credit risk does not raise consumer borrowing costs; and continued opposition to allowing bankruptcy judges to modify mortgages.
- The Senate is working on its own financial services reform legislation, with considerable changes expected to be made to its draft bill. A full-committee markup could happen by early February.
- **More info:** www.nahb.org/overhaul; Dave Ledford (800-368-5242, x8265) Scott Meyer (x8144)

2. Future Role and Structure of the Housing GSEs – Housing Finance Committee, FGAC

- With Fannie and Freddie still in conservatorship and the housing finance market in turmoil, Congress is expected to soon begin deliberating action on them and possibly the Federal Home Loan Bank System.
- Principal questions pertain to the future relationship between the GSEs and the federal government and the related issue of the scope and size of GSE operations and activities.
- Possibilities range from complete privatization, to full government agency status, to a number of public-private permutations in between. Another question is how to accomplish needed reform without throwing the housing finance system into even greater chaos.
- The Administration has not yet tackled this issue, but Treasury and HUD have been directed to develop recommendations on the future of Fannie Mae, Freddie Mac and the Federal Home Loan Bank System and report them as part of the President's 2011 budget proposal to be released in February 2010.
- On Dec. 24, Treasury announced several moves related to Fannie Mae and Freddie Mac that are generally positive for the housing sector. Most significantly, Treasury said that for the next 3 years it is removing caps on the amount of available capital it will provide to the firms. Treasury also revised the formula for mandatory reduction in the GSEs' retained mortgage portfolios, which removes the near-term pressure for liquidations of those holdings.
- With this announcement, Treasury sent a strong message that Fannie Mae and Freddie Mac will remain a vital part of the mortgage market in the immediate future. It has also bought the Administration time to refine its future plans for the firms, although a preliminary report is still planned for early February. This development could lead to further slippage in Congressional action on the GSEs.
- Based on recommendations of a member task force, NAHB adopted policy at the 2009 International Builders' Show that outlines principles for any restructuring of the housing finance system.
- With the housing finance environment continuing to undergo such rapid change, and with more specific proposals for reconstructing the mortgage support system beginning to emerge, NAHB is reviewing how well our GSE policy is serving us. A special webcast was held on Oct. 27 to begin this process.
- NAHB members have been encouraged to review the webcast and accompanying materials, and to provide input on NAHB's subsequent policy discussions at the 2010 IBS meeting in January. The webcast can be accessed at www.nahb.org/gsewebcast.
- **More information:** www.nahb.org/gseinput; Chellie Hamecs (800-368-5242, x8425)

3. Single-Family Mortgage Credit Standards – *Housing Finance Committee, FGAC*

- In response to mounting losses from the housing downturn, FHA, Fannie Mae and Freddie Mac have significantly tightened credit standards on single-family mortgages.
- FHA is considering several steps to improve loan quality and shore up reserves. These measures, which FHA plans to announce by the end of January, include:
 - Reducing the limit on seller concessions to 3% from 6% (and considering additional reductions);
 - Raising the minimum FICO credit score from the current 500 to 620 or higher;
 - Increasing borrowers' upfront cash requirement beyond the current 3.5% ; and
 - Examining the mortgage insurance premium structure to see if an increase is needed in the upfront and/or annual premium.
- Fannie Mae and Freddie Mac also continue to experience significant losses due to escalating credit expenses. To stem these losses, the GSEs continue to tighten underwriting standards and to raise risk-based delivery fees.
- Both Fannie Mae and Freddie Mac recently announced increases in the minimum credit score on their single-family loan purchases to 620 for loans with a LTV ratio equal to or less than 75% and to 660 for loans with LTVs above 75%.
- The withdrawal of most private mortgage insurers from the construction-to-permanent loan market, along with subsequent restrictions in secondary market programs in this area, have created financing challenges for clients of custom home builders.
- With FHA, Fannie Mae and Freddie Mac now accounting for almost 90% of all mortgage originations, these changes will have a broad impact on the availability of mortgage financing.
- NAHB is working to ensure that the changes are balanced and to prevent overreaction so mortgage credit is not unnecessarily denied to viable borrowers.
- **More information:** www.nahb.org/fhatighten; Chellie Hamecs (800-368-5242, x8425)

4. AD&C Credit Crunch – *Housing Finance Committee and Federal Government Affairs Committee*

- Lack of credit for land acquisition, development and residential construction (AD&C) continues to be the home building industry's most pressing problem. If the spigot for housing production loans is cut off, there can be no housing recovery – which has major implications for the economy as a whole. NAHB is sounding this alarm in every appropriate venue and working hard to free up AD&C funding.
- NAHB surveys continue to find that regulatory/examiner pressure is the key factor in tight lending conditions. Federal regulators maintain that they are not encouraging institutions to stop making loans or to indiscriminately liquidate outstanding loans, but they have noted tighter lending conditions.
- On Oct. 30, the regulators issued new guidance on *Prudent Commercial Real Estate (CRE) Loan Workouts* with the objective of encouraging financial institutions to pursue workouts on troubled CRE loans (a category that includes residential AD&C loans) and ensuring that supervisory actions do not impair the flow of credit to viable borrowers and projects.
- The statement is a positive step in encouraging workouts as a preferred course of action and in directing examiners to make balanced assessments of institutions' workout efforts. The direction provided on allowing institutions to avoid using liquidation values when assessing collateral and on bifurcation of loans should be helpful to builders and developers.
- That said, the workout criteria is focused on income-producing properties – which will help multifamily builders, but will only provide limited ability to structure workouts for AD&C borrowers. For this policy to be truly effective, more flexibility in workouts for AD&C loans is needed.
- NAHB Senior Officers and a delegation of builders met with Federal Reserve Chairman Ben Bernanke and other top Fed officials on Dec. 7 to discuss the ongoing challenges in housing finance.
- NAHB has developed a new initiative called the [Partnership Pavilion](#) for introduction at the IBS. This innovative forum will provide the opportunity for builders and developers to discuss their funding needs with representatives of a variety of capital sources and financing advisors.
- **More:** www.nahb.org/creworkout, www.nahb.org/partnership; Chellie Hamecs (800-368-5242, x8425)

5. Appraisals – *Housing Finance Committee*

- NAHB continues to receive reports of appraisals that have improperly used distressed sales as comparables. Meanwhile, falling appraised values for land and subdivisions under development have led some financial institutions to cease lending to developers and home builders altogether or demand that builders and developers contribute additional equity.
- In meetings with regulators and lenders, NAHB has been raising awareness of the impact of restrictive appraisals on the housing industry and urging regulatory action to address the proper use of distressed properties in appraisals. Another concern is the impact of the Home Valuation Code of Conduct (HVCC), which has resulted in greater use of out-of-area appraisers and a decrease in appraisal quality.
- Fannie Mae and Freddie Mac have issued appraisal guidance to seller/servicers to help resolve confusion regarding the HVCC. Freddie Mac also has clarified that appraisers are not required to use foreclosed or distressed properties as comparables.
- NAHB hosted an Appraisal Summit on Sept. 21 and a follow-up meeting on Nov. 3; both were attended by representatives of a broad range of housing stakeholders, federal regulatory agencies, and appraisal organizations.
- There was strong sentiment at these meetings that clearer information on what the HVCC allows, requires and prohibits should be widely disseminated; that additional clarifications are needed for non-lender users of appraisals; and that there should be more stringent requirements for appraiser training and experience. Fannie Mae and Freddie Mac have agreed to work with NAHB to develop additional clarifications for builders and others, and there was broad agreement that the stakeholder organizations should work together to push for improvement in state regulation and oversight of appraisers.
- Meanwhile, there is an urgent need to get the value of green building appropriately recognized in the appraisal system. NAHB has been collaborating with the Appraisal Institute to help educate the Institute's appraiser members in this area.
- Past Chairman Sandy Dunn and the leadership of NAHB's Building Systems Council met with the leadership of the Appraisal Institute on December 17 to discuss ways to work together to improve appraisers' understanding of the valuation of log, modular and concrete homes.
- **More:** www.nahb.org/appraisals, www.nahb.org/appraisalprimer; Dave Ledford (x8265)

6. Carried Interest – *Housing Finance Committee, Federal Government Affairs Committee*

- The Tax Extenders Act of 2009 was approved by the House of Representatives in December. This legislation would extend through 2010 some of the \$31 billion in popular tax breaks that are due to expire at year's end.
- Among provisions that would be extended is an "exchange" provision for the Low Income Housing Tax Credit program allowing state housing finance agencies to trade in a portion of their tax credit allocation for grant dollars to support local affordable housing.
- The bill would be paid for by cracking down on international tax evasion and taxing "carried interest," which would impose a multi-billion-dollar tax increase on real estate at a time when the industry is struggling to emerge from its worst downturn in decades.
- Currently, capital gains income generated by carried interest in a partnership is subject to a tax rate of 15%; under the House bill, the carried interest would be characterized as ordinary income subject to tax rates up to 35%.
- Prior to this bill's passage, NAHB sent a letter to House members in support of the LIHTC measure but strongly opposing the use of carried interest as its central revenue offset. The bill now goes to the Senate, which has rejected the carried interest proposal in the past.
- **More information:** www.nahb.org/taxhike; Greg Brown (800-368-5242, x8421)

7. Chinese Drywall – *Building Product Issues and Federal Government Affairs Committees*

- NAHB is working with Marsh and Building Health Sciences to develop testing and remediation protocols for homes that are suspected to have been built with contaminated drywall.
- NAHB has been approached on several occasions by staff of the Congressional Contaminated Drywall Caucus with questions about the residential construction industry and its use and installation of drywall in housing. And we have expressed willingness to work with the CPSC to find solutions to the problem.
- NAHB staff has also continued to speak with congressional staff about concerns among homeowners and builders over the issue of remediation costs and the federal government's role in addressing the problem. Meanwhile, our staff recently worked with Senator Landrieu's staff to develop a letter to the Chairman of the Federal Trade Commission that was signed by six additional senators to express concerns over companies claiming "quick," and expensive, solutions to the drywall issue.
- **More info:** www.nahb.org/chinesedrywall; David Jaffe (800-368-5242, x8317) Jenna Hamilton (x8407)

8. Health Care Legislation – *Federal Government Affairs Committee*

- After months of piecing legislation together and weeks of debate on the Senate floor, the Senate passed the Patient Protection and Affordable Care Act on Christmas Eve, along party lines.
- Democratic leadership in the House and Senate must now conference together to resolve vast differences in their respective bills. Their hope is to achieve final congressional approval and send a healthcare reform bill to the President's desk prior to the State of the Union Address.
- NAHB strongly opposed the final Senate legislation, primarily due to a last minute provision included in the "manager's amendment" that excludes the construction industry from a small business exemption that relieves small employers from the burdens associated with healthcare reform.
- The association will remain heavily engaged in coming weeks to ensure that this specific provision is stripped from the final legislation.
- **More info:** www.nahb.org/hcbill, www.nahb.org/househealthcare; Carlos Gutierrez (x8242)

9. Stormwater Rules – *Environmental Issues Committee, Legal Action Committee*

- EPA finalized its Construction and Development Industry Effluent Limitation Guidelines on Dec. 1. This new rule establishes a series of mandatory Best Management Practices and a numeric effluent limit for projects that disturb over 10 acres. The numeric limits will be implemented nationwide over a four-year timeframe. The ELG will for the first time require monitoring of construction site discharge to meet a 280 NTU limit (turbidity measurement units).
- NAHB's advocacy efforts helped move EPA away from its initial proposal of a 13 NTU limit and from its plan to require Active Treatment Systems (ATS), which would have been extremely costly.
- NAHB is analyzing the final rule and supporting documents to determine how EPA can justify the 280 NTU limit and identify potential industry ramifications and next steps.
- Due to the problems associated with this regulation, NAHB initiated a lawsuit by filing a Petition for Review in the D.C. Court of Appeals. Our state associations in Wisconsin and Mississippi have also recognized problems with this rule, and have filed suit in their respective courts.
- EPA has also announced that it will propose a national rule to control long-term, post-construction stormwater discharges from newly developed and redeveloped sites. As part of this rulemaking, EPA is developing a survey to gather data about current practices and assess the cost of compliance.
- NAHB developed comments on the survey and worked with volunteers from the Environmental Issues and Land Development Committees to provide recommendations for reducing the burden on survey recipients. A final rule is expected by November 2012.
- EPA is hosting listening sessions for stakeholders in January 2010 to gather input on this national stormwater rulemaking for post construction stormwater discharge. These sessions are set for Chicago (1/19), San Francisco (1/20), Denver (1/25), Dallas (1/26), and Washington, D.C. (1/28).
- **More info:** www.nahb.org/elg, www.nahb.org/elgrelease; Ty Asfaw (800-368-5242, x8124)

10. Climate Change – *Environmental Issues Committee, Federal Government Affairs Committee*

- In the concluding days of a major international climate conference in Denmark, President Obama helped negotiate an agreement, known as the “Copenhagen Accord,” that puts both rich and poor countries on a schedule to reduce global greenhouse gas emissions. As a result, the pressure is now on Congress to follow through with legislation to implement emissions reductions in the United States.
- The Senate Environment and Public Works Committee passed S. 1733, a comprehensive cap-and-trade bill, in November, with all panel Republicans boycotting the session. One of several bills in the Senate, it has only tepid support. Floor action is expected in the spring of 2010.
- On the regulatory side, NAHB has completed several key components of its climate change research strategy. All internal reports are available on NAHB.org under Housing Economics, Special Studies.
- A comprehensive literature review found that there is little actionable data linking greenhouse gas emissions/climate change to residential development patterns. A more expansive literature search will be completed by the IBS, with a focus on factors related to density of development.
- On Dec. 7, EPA Administrator Lisa Jackson proclaimed that greenhouse gases endanger public health and welfare and that cars and trucks contribute to that pollution.
- In anticipation of Administrator Jackson’s announcement, EPA and the National Highway Traffic Safety Administration proposed a new corporate average fuel efficiency standard (CAFE) and emission standards for greenhouse gases. EPA also made two other proposals regarding the greenhouse gas regulations. Comments were due Dec. 28.
- **More information:** www.nahb.org/greenhousebill; Matt Watkins (800-368-5242, x8327)
Elizabeth Odina (x8570)

11. Chesapeake Bay – *Environmental Issues Committee*

- President Obama and the Administration have taken a number of recent steps to jumpstart efforts to improve the health of the Chesapeake Bay and develop a national model that can be used to improve water quality nationwide.
- On Nov. 2, NAHB held a meeting with members and HBA staff affected by these initiatives to develop a joint strategy for dealing with the Chesapeake Bay regulatory issues.
- EPA hosted a number of public hearings to gather input on its activities. NAHB developed a series of talking points that were used by members to ensure our issues were raised.
- NAHB submitted comments on EPA’s “Preliminary Notice of the Development of the Chesapeake Bay TMDL” and on the “Draft Strategy for Protecting and Restoring the Chesapeake Bay” on Dec. 18.
- EPA has revealed that it is planning an enhanced compliance and enforcement program for NPDES permit holders in the Chesapeake Bay watershed; it will also create a new program to reduce emissions of airborne pollutants in the Chesapeake Bay airshed, including those from construction sites.
- Senator Cardin (D-Md.) has introduced the “Chesapeake Bay Ecosystem Restoration Act of 2009.” NAHB and Maryland members met with Senator Cardin’s staff and others to outline a number of concerns with the bill’s language.
- A House companion bill was introduced by Rep. Cummings (D-Md.). NAHB and Maryland members plan to meet with Rep. Van Hollen (D-Md.) to discuss this legislation. NAHB and Virginia members have also communicated with Sen. Warner (D-Va.) regarding our concerns with the Senate bill.
- **More:** www.nahb.org/chesapeakebay; Glynn Rountree (800-368-5242, x8662)

12. CEQ/Recovery Through Retrofit – FGAC, NAHB Remodelers, CC&S, Env. Issues Comm.

- On Oct. 19, Vice President Biden unveiled a White House report, “Recovery Through Retrofit,” identifying various initiatives that will be taken by the Administration to increase energy efficiency, promote green building practices, reduce greenhouse gases, and create jobs by encouraging the retrofitting of the nation’s existing housing stock.
- NAHB comments on the report highlighted our leadership role in green building and offered technical assistance. As a result, NAHB was invited to attend a meeting with the Council on Environmental Quality (CEQ) to discuss the report and next steps.
- NAHB has also been working with Rep. Welch (D-Vt.) as he develops retrofit legislation, to ensure that any proposal is workable and provides sufficient flexibility to work in all areas of the country.
- On both Dec. 8 and 15, President Obama publicly recognized the need to create jobs and economic growth, and called on Congress to consider a new program to provide incentives to consumers who retrofit their homes for energy efficiency. NAHB has submitted a letter to President Obama urging him to rely on our collective experience and expertise to help him meet the goals he has outlined.
- With the strong backing of NAHB, Reps. Dave Reichert (R-Wash.), Ron Kind (D-Wash.), Earl Blumenauer (D-Ore.), Geoff Davis (R-Ky.), Tom Perriello (D-Va.) and Chris Lee (R-N.Y.) introduced H.R. 4226, the Expanding Building Efficiency Incentives Act of 2009, on Dec. 8.
- **More:** www.nahb.org/retrofit; Mike Mittelholzer (800-368-5242, x8660)

13. ICC Code Development Hearings – Construction, Codes & Standards Committee

- 2,435 Proposals were debated and acted upon by the ICC Code Committees during the recent 2009-10 ICC Code Development Hearings held in Baltimore.
 - NAHB was represented on 10 of the 14 Code Committees that decided the initial action on the proposals at this first round of hearings.
 - NAHB took a position on over 900 of these proposals.
 - NAHB was very successful in many of its positions on the key issues. Key issues included energy efficiency; structural requirements; fire protection; carbon monoxide detectors; accessibility and visitability; means of egress; and whole house ventilation.
 - Staff is reviewing the outcome of the hearings and preparing to submit public comments that are due by Feb. 8.
 - **More info:** www.nbnnews.com/NBN/issues/2009-12-07/codes/index.html; Larry Brown, (800-368-5242, x8565).
-