

# Priority Action Items on AD&C

The following action items have been identified by NAHB's AD&C Advisory Group as top priorities in the effort to address the lending crisis. While the Advisory Group considered many other potential action items, it identified these as the most feasible in the current economic and political climate.

On the following pages of this document you will find other action items that the Advisory Group determined were not suitable for priority action at this time, as well as selected implementation strategies and a summary of the actions that NAHB has already taken in the effort to resolve the AD&C crisis.

## I. Priority Action Items

1. Seek adjustments/greater flexibility in bank commercial real estate threshold regulatory "guidelines," particularly the 100% of capital threshold for residential development and construction loans.
2. Adjust loan classification criteria. The reserves a bank has to put toward restructuring a troubled debt are still too high to encourage most lenders to work with the borrower.
3. Find a way to incentivize lenders to offer special mortgage programs for buyers of a home in a project where the lender has a troubled AD&C loan. Several banks in North Carolina and other places used TARP funds to fund these mortgages, and it boosted sales in those projects.
4. Look further into opportunities for banks to invest cash in foreclosed projects and increase their return when sold (Wells Fargo provides a good example).
5. End the use of liquidation values in reappraisals of AD&C loan collateral, and pursue a waiver of LTV guidelines in cases where an outstanding loan is performing and the borrower can demonstrate a willingness and ability to service the debt.

## **II. Other Potential Action Items**

These are potential action items that the AD&C Advisory Group determined were a lower priority for any of several reasons, including: 1) Unachievable in the current policy environment; 2) Lower potential impact if achieved; 3) More of a long-term initiative. Any of these might be considered for higher priority attention as the economic and policy environments evolve.

1. The timeframes on loan classifications need to be lengthened. Look further into helping to develop the proposal by the Independent Community Bankers of America to extend the amortization period on write downs of underperforming AD&C loans.
2. Obtain provisions in GSE reform legislation to establish a secondary market outlet for AD&C loans.
3. Instead of requiring a paydown on principal when a property is reappraised, gain the support of regulators to allow builders to invest additional equity in the property to enhance the property's value so a principal paydown is not required.
4. Increase the timeframe for appraisal comparables to at least 18 months.
5. Develop a federal guaranty or insurance program to back AD&C loans (Note: NAHB has obtained introduction of AD&C federal loan guaranty legislation in H.R. 5409).
6. Develop a mezzanine financing fund for builders. New Jersey is working on such a fund, targeting union, endowment and corporate funds. Insurance companies are another potential source of investment funds.
7. Form consortia of small builders that would pool resources to purchase and develop land.
8. Gain regulators' backing to incentivize (and not penalize) lenders to continue providing draws if the additional funds will increase the value of a project by at least as much as the value of the additional funds. The incentive should include an updated fair market appraisal showing an increase in value that will be equal to or greater than the additional funds provided.
9. Establish an entity, similar to RTC or Home Owners Loan Corporation, to purchase underperforming AD&C loans from banks. Require banks to use the proceeds to make new AD&C loans.
10. Seek a statutory or regulatory change that would allow FDIC insurance assessments to be used for forbearance so projects can be completed and loans repaid in addition to the FDIC's current use of funds to pay for loss share agreements after an institution fails.
11. Increase the capital available to banks by using federal funds to back loans with lower appraisals than when the funds were initially lent.
12. Urge HUD to develop risk-sharing programs for AD&C loans.

### **III. Selected Implementation Recommendations**

#### **Grassroots Tactics**

- Engage NAHB associate members who are in the banking/lending industry. These members have a different set of connections to legislators, key regulators and banking and other industry groups.
- Develop a grassroots program to be deployed during the congressional summer recess whereby members will meet with congressional leaders in their district offices along with local lenders and appropriate representatives from the federal banking regulators. NAHB would develop a prioritized list of congressional offices to target and would provide resources to mobilize the grassroots and help members secure meetings with their congressional leaders.
- Develop a focused argument that builders and associates are small businesses and they can and should be part of the solution in terms of job creation. Lenders should treat builders the same way they treat other small businesses.
- Develop a simple explanation of CRE limits and their impact on builder financing so members can speak most effectively on the matter.
- Encourage ICBA/ABA to take the lead on seeking legislative/regulatory changes in rules governing AD&C lending.
- Reach out to other industries to inquire about their credit situations. Partner with other industries.

#### **Data Collection on AD&C Markets**

- Obtain funding for, or government development of, a system to track lot inventory nationwide.
- Develop more state-level data (and related analysis) to show differences among the states in foreclosures and other key market conditions.
- Examine how NAHB should suggest the nation pay for proposed AD&C solutions. In this budget climate, we need to acknowledge the need for revenue offsets. Need to prioritize importance of NAHB issues, e.g. housing tax incentives.

#### **IV. Summary of NAHB Actions to Resolve AD&C Lending Crisis**

Since the advent of the acquisition, development and construction (AD&C) credit crunch more than two years ago, NAHB's single-most important priority has been ending the freeze in home building credit that is threatening countless building firms across the nation. NAHB continues to work non-stop to reach out to regulators, banks, Washington policymakers and the media to sound the alarm about the severe lack of credit for viable home building projects and to seek regulatory and legislative solutions. Rather than chronicle every action item since the crisis began, this summary highlights ongoing efforts during the past year to resolve AD&C credit problems and restore the flow of housing production credit. The actions fall into several categories:

##### **Legislation**

- NAHB played a key role in adding language to H.R. 5297, the Small Business Lending Fund Act of 2010, which will help address the housing credit crisis. A provision was added that specifically allows construction loans to be included in the \$30 billion fund for small business lending.
- The amendment referencing residential construction passed by a vote of 418 to 3, demonstrating that lawmakers understand the importance of restoring health to the housing industry in order to promote economic recovery. H.R. 5297 was approved on June 17 and is now awaiting action in the Senate.
- NAHB is also working to build support in the House for stand-alone legislation (H.R. 5409) that would create a \$15 billion loan guarantee program for residential AD&C lending under the Treasury Department.
- NAHB is engaged in an ongoing lobbying and grassroots effort on this front. Letters were sent to every member of Congress asking lawmakers to co-sponsor H.R. 5409. Citing the importance of this legislation to the housing industry, NAHB designated support for the bill as a "key co-sponsorship," the same priority as when the association calls for a "key vote" on other critical housing measures. NAHB is urging its members to phone, visit or e-mail their representatives and call on them to co-sponsor H.R. 5409.

##### **Bank Regulators**

- NAHB continues to meet with federal banking regulators to urge them to put a halt to overly restrictive actions by bank examiners, support the extension of loans to viable projects, encourage flexibility in workouts of outstanding loans and provide relief from loan concentration limits.
- The latest round of discussions occurred this spring, when we met with Federal Reserve Chairman Ben Bernanke and other Fed governors, FDIC Chairman Sheila Bair and Comptroller of the Currency John Dugan. We also aired our deep concerns with top

Administration officials, including HUD Secretary Shaun Donovan and Larry Summers, the head of the President's National Economic Council.

- Working with banking groups – including the Independent Community Bankers of America, the Financial Services Roundtable and the American Bankers Association – NAHB is seeking regulatory and legislative solutions to the AD&C situation. NAHB has also conducted individual meetings with large and smaller banks to discuss funding problems and seek solutions.
- The AD&C issue was a centerpiece in the message that NAHB members took to their congressional delegations during the 2009 and 2010 Legislative Conferences. These meetings were effective and produced a number of letters from members of Congress to the federal banking regulators seeking steps to free up AD&C credit. NAHB is also engaged in major outreach and education efforts with governors and county and city officials across the nation.

### **Media Outreach**

- NAHB has been quoted on the AD&C lending crisis in roughly 100 media outlets since January. During this period, NAHB CEO Jerry Howard has made three trips to New York to conduct editorial meetings on the AD&C crisis and appraisal issues with the Wall Street Journal, Business Week, CNN, CNBC and Forbes.
- Other prominent media outlets where NAHB leaders have voiced their concerns over the credit crunch include the Associated Press, Reuters, USA Today, MSNBC.com, Bloomberg TV, Fox News, Fox Business, Roll Call, the Dow Jones Newswire and the National Mortgage News.

### **Press Examples**

- “When we came out of past recessions, there wasn’t the difficulty of obtaining financing that there is now,” NAHB CEO Jerry Howard said in a June 15 CNN/Money story.
- “There’s no credit out there for people to build viable projects,” Howard said in a May 28 story published by Dow Jones Newswires.
- “With the housing market struggling to regain its footing, regulators need to be issuing more flexible guidelines that will encourage banks to maintain funding for residential AD&C loans in good standing that fall below their underlying value,” NAHB Chairman Bob Jones was quoted in the National Mortgage News.

## **Assisting Members with Credit Problems**

- Reference materials to assist members in dealing with problems with new and outstanding loans are available in the Housing Topics section of NAHB.org at [www.nahb.org/adcreources](http://www.nahb.org/adcreources).
- NAHB is also conducting a series of webinars to assist members in surviving the credit crisis. Most recently, a webinar was produced for builders on what they can do if their bank is taken over by the Federal Deposit Insurance Corporation. Upcoming webinars are scheduled on appraisals (August 4) and AD&C financing options (October 27).
- NAHB continues to compile case studies of builder and developer financing problems, which have helped to illustrate the specific types of regulatory problems builders are facing. Our most recent call for case studies yielded well over 100 examples of builder credit problems.

## **Seeking Alternative Financing Sources**

- Over the past year, NAHB has conducted a number of programs for builders on finding local equity partners, and at the 2010 International Builders' Show, we provided a Partnership Pavilion where builders could meet with potential lenders/investors and financial advisors. NAHB will soon be launching an online version of the Partnership Pavilion where members can apply for credit with participating financing sources.