

MEMO

To: Roger

From: James

Subject: REA Board - Home Valuation Code of Conduct (HVCC)

Date: April 9, 2009

I. Generally, What is HVCC?

New York State Attorney General Andrew M. Cuomo, Fannie Mae and Freddie Mac (government sponsored enterprises) announced the final agreement of the Home Valuation Code of Conduct (HVCC) on December 23, 2008, to change appraiser selection criteria that will help eliminate conflicts of interest on mortgage appraisals. The agreement has the support of the Federal Housing Finance Administration (FHFA).

This is an agreement signed by two government-sponsored corporations, Fannie Mae and Freddie Mac, and the New York State Attorney General, Andrew Cuomo. The federal regulator of Fannie Mae and Freddie Mac, the Office of Federal Housing Enterprise Oversight (OFHEO) also signed the agreement. No legislation was passed or signed into law with respect to this agreement.

The requirements will have a significant impact on appraisal practices by lenders as they will have to comply with the new requirements agreed-to by the government sponsored enterprises (GSE) if the lenders sell mortgages to the GSEs. The GSEs have agreed to implement the HVCC beginning May 1, 2009. During 2008, the GSEs received comments from market participants.

The HVCC will be implemented establishing standards on solicitation, selection, compensation, conflicts of interest and appraiser independence. Mortgage brokers and real estate agents are prohibited from selecting appraisers. Lenders are permitted to use "in house" staff appraisers to conduct appraisals. However, the loan production staff is prohibited from (1) selecting, retaining, recommending, or influencing the selection of an appraiser for an appraisal assignment or for inclusion on an appraisal roster and (2) having any substantive conversation with an appraiser or appraisal management company regarding valuation, including ordering or managing an appraisal assignment. The code entitles the borrower to one copy of an appraisal report, free of charge, within 3 days of the closing of the loan.

The Independent Valuation Protection Institute (IVPI) will establish a telephone hotline and E-mail address to receive complaints from appraisers and users of appraisal services on the improper influence or attempted improper influence of appraisers. The Institute will publish and

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promote best practices for independent valuation. Lenders are prohibited from retaliating against any person or entity that makes a complaint to the IVPI.

II. Scope of HVCC

_____ This agreement applies to mortgages across the country. After January 1, 2009, the GSEs will not purchase single-family loans from mortgage originators in any state that do not agree to adopt the Home Valuation Protection Code. As of January 15, 2009, only Fannie Mae and Freddie Mac have agreed to adopt the code.

_____ **Loans Affected:** 1 to 4 unit single-family loans sold to Fannie Mae, and originated on or after May 1, 2009. Origination date equals the date of the application.

_____ **Loans Not Affected:** Multifamily loans; loans insured or guaranteed by a federal agency (FHA and VA loans); loans sold to Fannie Mae on or after May 1, 2009, that were originated prior to May 1, 2009. Additionally, the Code does not apply to appraisals performed for loss mitigation purposes, or appraisals for cancelling mortgage insurance based on current value.

_____ Lenders that do not intend to sell their loans to Fannie Mae or Freddie Mac are not obligated to adhere to the HVCC. GSEs may exclude lenders that meet the definition of "small bank" according to 12 USC§ 2908 and which the GSE determines would suffer hardships from provisions of the HVCC. However, excluded lenders must otherwise comply with the other provisions of the Code and meet appropriate standards of appraiser independence.

The GSEs will apply the new code to lenders selling mortgages on the secondary mortgage market.

III. How Does HVCC Affect The Independent Appraiser?

_____ Independent appraisers, appraisal companies, and appraisers managed by lenders or settlement companies must continue to meet appropriate standards of appraiser independence, including following Uniform Standards of Professional Appraisal Practice (USPAP) and maintaining relevant state licenses or certifications.

Appraiser misconduct action will be conducted by state licensing agencies. The code is primarily directed at regulating banks and other mortgage lenders and promoting appraisal independence.

The HVCC prohibits borrowers from providing payment directly to appraisers. Only the lender or a third party authorized to select and retain the appraiser can provide compensation to the appraiser.

Nothing in the Code requires a lender to obtain a property valuation, or to use any particular method of property valuation. Nor does the Code affect the acceptable scope of work for an appraiser in connection with a particular assignment.

IV. How Does HVCC Affect Realtors?

Individual Realtors, and licensed real estate agents cannot serve as a third party between a lender and appraiser. This includes selection, retention, and compensation of an appraiser.

Broker Realtors that offer services as a lender or affiliated lender and appraiser services must comply fully with the HVCC if there is an expectation that their loans will be purchased by Fannie Mae or Freddie Mac after May 1, 2009.

V. How Does HVCC Affect Appraiser / Realtor Interaction?

_____ Individual Realtors and licensed real estate agents cannot serve as a third party between a lender and appraiser. This includes selection, retention, and compensation of an appraiser. A third party, including Realtors and real estate agents, can still ask appraisers for additional information, provide additional information to an appraiser, or ask for corrections of factual errors.

VI. Does HVCC Mandate The Use of Appraisal Management Companies?

_____ Lenders may order appraisals directly from an individual appraiser. Lenders that utilize in-house appraisers can still order appraisals as long as they are independent of the loan production staff and do not ultimately report to an officer who manages loan production.

VII. Conclusion:

_____ Does the Board need to take a position? No - The code is primarily directed at regulating banks and other mortgage lenders and promoting appraisal independence. Individual appraiser conduct is still regulated by the Uniform Standards of Professional Appraisal Practice (USPAP). The Board should concentrate its efforts towards ensuring that Idaho appraisers are in compliance with USPAP, and maintaining relevant state licenses or certifications.

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