

HOME VALUATION CODE OF CONDUCT



PREPARED FOR:

***2008 MBA GOVERNMENT HOUSING AND LOAN
PRODUCTION CONFERENCE***

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I. INTRODUCTION

A. New York Attorney General Announces Significant Changes for Appraisal Industry

1. March 3, 2008 New York Home Valuation Code of Conduct
2. Structured-based approach to appraisal reform
3. Single state attorney general imposes changes affecting the entire appraisal services industry

B. How Did This Happen?

1. New York-AG files suit against major appraisal management company and national lender
2. Conducts review of GSEs role in appraisal process
3. March 2008 NY-AG along with OFHEO enter into Cooperation Agreement with Freddie Mac and Fannie Mae

C. NY-AG Does an End-Run

1. In past, NY-AGs unable to impose mortgage requirements on federal financial institutions
2. By signing Cooperation Agreement with GSEs, banks left with no choice but to follow NY-AG Code of Conduct

II. COOPERATION AGREEMENT

A. Establishes Home Valuation Protection Code

1. Governs appraisal selection, solicitation, compensation and conflict resolution

2. Creates Independent Valuation Protection Institution to implement the Code

B. Independent Valuation Protection Institution

1. Establishes hot line for consumers
2. Contact for appraisers that encounter pressure from lenders to inflate values
3. Lenders are to report all adverse appraisal findings

C. Effective Date

1. January 1, 2009
2. Comment period ended April 30, 2008

III. CODE OF CONDUCT

A. Requirements

1. Lists prohibited conduct against appraisers
2. Borrowers entitled to copy of appraisal
3. Limits who may pay an appraiser
4. Limits who may select or communicate with an appraiser

B. Key Provisions Contained in Paragraph VI

1. Under Code lender may not utilize an appraisal report prepared by an appraiser employed by:
 - a. lender
 - b. affiliate of lender
 - c. entity owned by a lender
 - d. entity that owns a lender
 - e. mortgage broker
 - f. settlement service provider
 - g. company that provides additional settlement services

- C. Freddie Mac March 5 Bulletin Further Narrows Scope of Code
 - 1. Any entity that offers any other services other than appraisals – may not utilize appraisal reports prepared by such an entity
 - a. AMC
 - b. VMC

IV. INDUSTRY REACTION

- A. Opposition
 - 1. All major lender trade associations
 - 2. Federal financial institutions
 - 3. Title companies, AMCs, VMCs
- B. Claim Code Illegal
 - 1. Substantive standards must be implemented through rule making not agreements or codes
 - 2. No legal authority for OFHEO to cede or share authority With NY-AG
 - 3. Safety and soundness arguments
 - 4. Code conflicts with Congressional mandates
- C. Detractors Question Premise For Code
 - 1. More pressure on appraisers from lenders in case of staff appraisers and lender-owned appraisal companies
 - 2. Statistics suggest otherwise
- D. Additional Arguments by Code's Opponents
 - 1. Code will undermine quality and reliability of appraisals
 - 2. Cost of appraisal to consumers will rise, as well as the time to produce appraisal reports
 - 3. Costs to lenders to manage appraisal process will rise

4. Smaller firms lack work force, capital and technology to assume larger role

E. Appraisers Weigh In

1. Mortgage brokers should be permitted to order appraisals
2. Asked that NY-AG curb AMCs
3. Asked that appraisers employed by financial institutions not be excluded from conducting appraisals
4. Asked that Code encourage appraisals rather than BPOs and AVMs

V. CONCLUSION

A. Structured-Base Approach vs. Standards-Based Approach

1. Code expected to become effective January 1, 2009
2. Will law suits arise?
3. Will Congress step in?

B. Stay Tuned

1. More to come