



SIMPLIFYING THE H.V.C.C.

Last month, Fannie Mae, Freddie Mac and the Federal Housing Finance Agency released a modified version of the HVCC (Home Value Code of Conduct) agreement, scheduled to go into effect on May 1, 2009. While the desired outcome of the agreement-ensuring appraisal independence and eliminating conflicts of interest- is crystal clear, how and what lenders will need to do to bring their policies and procedures into compliance is varied based on their current organizational structures and business lines.

In an effort to clarify what we believe to be the most significant aspects of the agreement, we have developed the following synopsis. It is important to note that this by no means is intended to be a comprehensive overview of the agreement but merely an abbreviated snapshot of its key implications. It should also be noted that the HVCC agreement applies only to loans sold to Fannie and/or Freddie. It does not include FHA or VA loans, loans purchased by other investors, or portfolio loans-(though any entity could request the appraisal be completed under the requirements of the agreement).

HIGHLIGHTS OF THE HVCC

- ❖ Mortgage brokers can no longer order appraisals. "The lender will not accept any appraisal report completed by an appraiser selected, retained, or compensated in any manner by any other third party (including mortgage brokers and real estate agents).
- ❖ Lender's loan production staff shall not order appraisals. "The loan production staff consists of those responsible for generating loan volume or approving loans, as well as their subordinates. This would include an employee whose compensation is based on loan volume or the closing of a loan transaction." They are also prohibited from having "substantive" communications with the appraiser.
- ❖ Lenders may use in-house appraisers provided appropriate firewalls are in place, such as the appraiser reporting to a function of the lender independent of sales or loan production.
- ❖ Lenders are not required to use an AMC to order appraisals.
- ❖ Lenders are responsible for paying the appraiser's fee; no fee for service can be withheld based on the value reported or outcome of the loan.
- ❖ Lenders shall not in any way influence or "condition" the outcome of an appraisal value.
- ❖ Lenders shall not order, obtain, use, or pay for a second or subsequent valuation unless proven and documented that the initial appraisal was flawed; or the second appraisal was done pursuant to pre-established policies.

- ❖ Lenders **can** ask an appraiser to support conclusions and correct factual errors.
- ❖ Comp Checks' are forbidden.
- ❖ Pre-stating 'value needed' is forbidden.
- ❖ Appraisers shall not be put on an 'exclusionary' list without written notice which shall include written evidence of the appraiser's illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) or state licensing standards, substandard performance, improper or unprofessional behavior or other substantive reason.
- ❖ Whoever is responsible for deciding who is on the approved appraiser list must be trained in appraisals and must be independent of loan production.
- ❖ Appraisal Management Companies may be used by the lender provided they comply with criteria in Section IV.B. of the Code.
- ❖ Correspondent lenders may order appraisals providing they comply with the Code.
- ❖ The HVCC does not mandate any particular valuation method, i.e., appraisal, AVM, evaluation, etc. in connection with any mortgage loan or mortgage financing transaction.
- ❖ The lender shall ensure that the borrower is provided a copy of the appraisal report promptly upon completion and in any event no less than three days prior to the closing of the loan.
- ❖ An Independent Valuation Protection Institute (IVPI) will be established, which will receive and report on any complaints of Code of Conduct non-compliance, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process.
- ❖ Certain exemptions exist for small banks (including non-banking institutions) that meet the definition of a "small bank" as set forth in 12 U.S.C. § 2908, and which Freddie Mae or Fannie Mae determines would suffer hardship due to the provisions, and which otherwise adhere to the Code of Conduct.
- ❖ The Code prohibits the appraiser from collecting payment for the appraisal directly from the borrower.
- ❖ A minimum of 10% of the valuations shall be randomly selected and quality control tested. For any loans sold to Fannie Mae or Freddie Mac, the lender shall provide a report of any adverse, negative, or irregular findings of such quality control testing, and any findings indicating non-compliance with any provision of this Code of Conduct.

Lenders and others are encouraged to read the full agreement, which can be accessed via the following links . If you have any questions about the agreement, its interpretation or how to successfully implement policies and procedures to ensure compliance, please feel free to contact us directly at HVCCcompliance@forsytheappraisals.com