Housing News Update

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Regulators Clarify Use of Evaluations in Place of Appraisals

Three financial regulatory agencies have clarified current rules on the use of **appraisals versus property evaluations**Three financial regulatory agencies have clarified current rules on the use of appraisals versus property evaluations in real estate transactions. The guidance, published by the Federal Reserve Board of Governors, the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) applies to all state member banks, bank holding companies, and nonbank subsidiaries of those holding companies regardless of their size but does not apply to institutions regulated by the National Credit Union Administration.

According to the advisory's cover letter the clarifications arose out of outreach meetings held between the agencies and stakeholders regarding requirements of the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA). The three agencies are still in the process of conducting a review of their regulations under EGRPRA including their appraisal regulations to evaluate whether they are outdated, unnecessary or unduly burdensome. The current guidance is issued in response to specific questions raised by financial industry representatives about the two methods of value estimation, when they can be used and how they can support a conclusion about value in the absence of sufficient recent comparable sales. The advisory stresses that it is **not intended to indicate** that the agencies have completed their review of appraisal requirements.

Current appraisal regulations require that financial institutions regulated by **any** of the agencies obtain an appraisal prepared by a state-licensed or certified appraiser and complying with the Uniform Standards of Professional Appraisal Practice (USPAP) for any real estate-related financial transaction, unless an exception applies. The following transactions are the **current exceptions** to the appraisal requirements. An evaluation is sufficient in such instances.

- Transactions where the "transaction value" (generally the loan amount) is $250,000 or less;
- Certain renewals, refinances, or other transactions involving existing extensions of credit; and
- Real estate-secured business loans with a transaction value of $1,000,000 or less and when the sale of, or rental income derived from, real estate is not the primary source of repayment for the loan.

National Average Mortgage Rates

	Rate	Change	Points
Mortgage News Daily			
30 Yr. Fixed	6.89%	**0.00**	0.00
15 Yr. Fixed	6.33%	**+0.01**	0.00
30 Yr. FHA	6.33%	**+0.01**	0.00
30 Yr. Jumbo	7.05%	**0.00**	0.00
5/1 ARM	6.58%	**0.00**	0.00
Freddie Mac			
30 Yr. Fixed	6.77%	**-0.09**	0.00
15 Yr. Fixed	6.05%	**-0.11**	0.00
Mortgage Bankers Assoc.			
30 Yr. Fixed	7.00%	**-0.03**	0.60
15 Yr. Fixed	6.63%	**+0.07**	0.61
30 Yr. FHA	6.87%	**-0.03**	0.92
30 Yr. Jumbo	7.13%	**+0.02**	0.38
5/1 ARM	6.22%	**-0.16**	0.60

Rates as of: 7/22

Recent Housing Data

		Value	Change
Mortgage Apps	Jul 10	206.1	-0.19%
Building Permits	Mar	1.46M	-3.95%
Housing Starts	Mar	1.32M	-13.15%
New Home Sales	Mar	693K	+4.68%
Pending Home Sales	Feb	75.6	+1.75%
Existing Home Sales	Feb	3.97M	-0.75%

		Value	Change
Builder Confidence	Mar	51	+6.25%

The advisory says despite these exceptions a financial institution may find it is **prudent or necessary** to conduct an appraisal such as for credit risk management purposes, when the institution's portfolio risk increases, for higher- risk real estate-related financial transactions or as a prerequisite to participating in some secondary market transactions.

Where an evaluation is used the preparers may be internal bank employees or third parties that are knowledgeable, competent, and independent of the transaction and the loan production function of the institution. The evaluation should provide a **reliable estimate** of the market value of the property and, therefore, the approach or approaches used in an evaluation should be appropriate to the property being valued. The preparer may consider one or of the generally acceptable valuation approaches or methodologies namely the sales comparison approach, the cost approach, or the income approach.

For **most residential properties** and some commercial properties, the preparer may obtain data on recent sales of properties similar to the property being valued that reflect recent market activity. Such comparable sales present direct market evidence that may be useful to the preparer in estimating the market value of the subject property.

Some valuation assignments, such as for properties in **rural** areas or in **non-disclosure states**, (those where the sale price is not part of the public record) or properties that are not sufficiently similar to other properties in the local market, there may not be sufficient comparable sales data. The preparer may consider alternative valuation methods and other information for developing an evaluation and supporting a market value conclusion. The cost approach might be appropriate, particularly if the property is newer construction or the income approach could be used for an evaluation of rental property.

Other analytical methods and tools such as **automated valuation models** and tax assessment values are described in *Interagency Appraisal and Evaluation Guidelines* and may be used if the institution can demonstrate that the method is consistent with safe-and- sound banking practices and these *Guidelines*. Institutions should establish policies and procedures that specify the supplemental information that is required to develop an evaluation.

The **minimum** requirements for the contents of an evaluation are specified in the *Guidelines* Unlike an appraisal report that must be written in conformity with the requirements of USPAP, there is no standard format for documenting the information and analysis performed.

The bottom line of the advisory appears to be that an evaluation should contain sufficient information for a reader to understand the analysis used to support the value conclusion and the institution's decision to engage in the transaction.

Update: Buyer Broker Agreement

After requests from real estate companies, a nonprofit consumer watchdog group the Consumer Federation of America has developed a list of factors to consider when creating a buyer contract in preparation for upcoming practice changes in the industry.

CFA released its “Proposed Criteria for Evaluating Home Buyer Contract Forms” on Tuesday. The 15 criteria focus on the contracts’ form — whether the documents are readable and understandable — and content — whether they are fair to homebuyers.

-the document’s expiration date (CFA recommends buyers asks for a three-month contract and never sign one longer than six months)
-the right to terminate the contract
-the disclosure that compensation is negotiable
-the broker’s compensation clearly stated and that the buyer broker can’t receive additional compensation for facilitating a sale
-that any additional fees, such as for showing a home, will be deducted from the broker’s commission if there is a successful sale
-that the commission is due only if there is a successful closing
-that buyers have an obligation — for no longer than 60 days, CFA recommends — to pay a broker who earlier showed them a home they purchased after the contract ended
-seller concessions paid directly to buyers
-dual agency not pre-approved by the contract
-an explanation of how a broker treats different buyer clients interested in the same property
-that buyers should not be required to first go through mediation or arbitration if they have a complaint

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