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Houston, we have a problem: The proposed home valuation code of conduct

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As a result of the agreement reached by the N.Y. attorney general's office, Fannie Mae, Freddie Mac and the office of federal housing enterprise oversight (OFHEO), the proposed Home Valuation Code of Conduct (HVCC) has been issued which consists of a set of guidelines that have the potential to create sweeping changes in the manner in which residential appraisers are engaged and how appraisal assignments are conducted.

The new "guidelines" arise out of a lawsuit brought by the N.Y. attorney general against Washington Mutual and eAppraiseIT and primarily focus on the coercion of appraisers. A settlement agreement resulted from the suite, where the government sponsored enterprises (GSEs), i.e., Fannie Mae and Freddie Mac, and the OFHEO agreed to change national appraisal rules and the attorney general's office would terminate its investigation of the GSEs.

While the agreement has the best of intentions on its surface, the proposed HVCC does not solve the problem and in fact severely punish appraisers, and ultimately, consumers. The document was written in a short period of time and its content and intent is a product of the haste and the pressure under which it was created.

There are many aspects to the HVCC agreement. Probably the most obvious (and outrageous) is the virtually immutable requirement that lenders use some form of AMC in the ordering of appraisals. Clearly, this change is proposed to eliminate the coercion and control of appraisers by originating personnel. While appearing to be a terrific idea on its face, any knowledgeable appraisal industry observer knows that AMCs appear to be a large part of today's problems. One of Washington Mutual's problems was that it trimmed staff and hired outside "expertise."

To make the AMCs part of the solution doesn't solve the problem but exacerbates current problems, and creates new ones. This is no panacea; this is a wolf wearing a sheepskin. Among other things, by precluding any interaction between originators and appraisers, many long standing client relationships and valuable sources of information about transactions and market activity will disappear. Further, there has been a persistent problem with AMCs with respect to their "negotiated" fee structures and enforced assignment conditions: the HVCC proposal does nothing to require fundamental changes in the manner in which AMCs operate. The change resulting from this part of the agreement alone is likely to drive many competent and dedicated appraisers away from this type of work, leaving it to those who are least able and most desperate for work.

Attempting to utilize an existing structure is a sensible and pragmatic solution. However, this structure itself needs to be reformed before it can be viable on the scale suggested. The current AMC "model" does not serve the interests of the public which, it is assumed, the attorney general's office is purporting to protect

Despite the very short time frame for comments, strong responses to the proposed HVCC

agreement have occurred from a wide range of concerned parties. These include appraisal organizations, state boards, commercial entities, and individual appraisers. The major points that commentators have made can be summarized as follows:

- * The proposed provisions of the HVCC agreement will destroy well-established, arms-length business relationships between appraisers and mortgage professionals;
- * HVCC will allow for the "proliferation" of appraisal management companies without any effective oversight, control, or reform of a portion of the industry which badly needs oversight, control, and reform;
- * HVCC will not permit appraisal work by appraisers working for federally regulated financial institutions and other lenders with independent appraisal operations such as those reporting to risk management, etc. as compared to loan origination functions.
- * HVCC effectively promotes "near appraisal" products such as automated valuation models and so-called broker price opinions as a means of circumventing compliance issues at the expense of "traditional" appraisals without establishing quality control and oversight mechanisms for these products.
- * Adequate attention is not paid in the agreement to appraiser competency, appraisal quality and appraiser training issues.

Part two will continue in the June 13th edition of the Appraisal & Consulting section of the New England Real Estate Journal.

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