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Home valuation code of conduct: How to stay informed on what is happening with the code

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The code is directed at lenders, their employees and agents and applies only to loans that will be sold to Fannie Mae and Freddie Mac. However, it will impact appraisers from a financial standpoint and in our exchange of information and general dealings with users of our services.

The code precludes an employee, director, officer, or agent of the lender, or any other third party acting as joint venture partner, independent contractor, appraisal company, appraisal management company, or partner on behalf of the lender from influencing the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner. It spells out a number of prohibited actions such as threatening to withhold timely payment or future business, requesting an estimated, predetermined, or desired valuation prior to the completion of an appraisal. It also prohibits requesting the appraiser to provide estimated values or comparable sales prior to the completion of the report.

Fannie Mae and Freddie Mac issued FAQ's that provide interpretative guidance for lender implementation of the code. Unfortunately, these do not clarify the entire code. For example, the code prohibits requests for, "an appraiser [to] provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal report." Does this prevent asking an appraiser for an unfiltered list of all sales of ranch style houses in a town in advance of completing an assignment?

In an effort to prevent undue pressure on appraisers it requires the use of middlemen such as someone in the lending organization who does not report to the loan production department or outside appraisal management companies (AMC).

A BusinessWeek article on February 5th, highlights some of the problems found with AMCs. There is little or no regulation of the AMC companies. NovaStar Financial (a lender) was disciplined in three states including Massachusetts for employing unlicensed brokers and charging unlawful fees. It is now an AMC under the name of StreetLinks National Appraisal Services. Global Appraisal Solutions is run by an appraiser from Florida who surrendered his appraisal license after agreeing there were some "data discrepancies in the body of the report." With the expanding number of AMCs care should be given to which AMCs we agree to accept work from.

While lenders and their agents are not to impose undue pressure on appraisers I have talked to appraisers who have been challenged by AMCs because the value did not meet the client's expectations. Adjustments that do not favor the lenders goals are also challenged. Some AMCs are even requiring that appraisers sign a statement verifying that the AMC complied with all of the requirements of the HAVCC before giving the appraiser the assignment. The signing of a false statement about client compliance with the code to obtain an assignment would also create problems under USPAP.

The code also requires that the lender not accept an appraisal when the compensation was paid in any manner by any other third party. This could mean the end of appraisers collecting from the homeowner at the door. Lenders, not mortgage brokers, would be responsible for paying appraisers and that could mean a long wait for payment.

An Independent Valuation Protection Institute is to be created as a source of information for and complaints from appraisers. The code does not address who can own or become a qualified AMC. However, the North Carolina legislature has introduced a bill that would regulate AMCs. It would require appraisal management companies to register with the state appraisal board. The bill would also prohibit AMCs from pressuring appraisers or from failing to pay appraisers.

The National Association of Mortgage Brokers (NAMB) has filed a lawsuit seeking to stop the implementation of code. The outcome of this action is unknown.

How do we stay informed on what is happening with this code? How do we know what are the most the recent interpretations of the requirements? How do we determine how they will impact our conduct and our business?

There are several websites including those of Freddie Mac and Fannie Mae that provide information and appraisal trade organizations provide information and guidance to their members.

The Mass. Board of Real Estate Appraisers (MBREA) provides timely emails about changing interpretations in the code and other issues of concern to its members. It also provides regular news letters via email about issues specifically impacting appraisers in New England both on the regional and national levels.

The cost of membership in the MBREA is less than we typically pay to for updates in software and hardware so that we can remain competitive and yet the information provided by the MBREA is just as important to our success.

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