Comments Regarding Proposed Interagency Appraisal and Evaluation Guidelines

In light of the current US economic situation the proposed guidelines do little to protect the US Consumer, from future occurrences. The American Citizen deserves protection from the national consequences of bailing out the failures of large lending institutions in the future, as well as the individual abuse of paying for a valuation product and not receiving it.

The proposal states that independent and reliable collateral valuations are core to a regulated institution's real estate credit decision and then delves into the many alternatives that allow this to be skirted. This affects the nation, individual institutions and the US Public. We have suffered too long the ill effects of short term gains for individual loan officers and institutions at the expense of the economic health of the nation.

The following areas should be further studied or eliminated.

Threshold

The threshold for a appraisal should be lowered, especially for initial loans and at least every other time a loan is renewed without advancing further funds. The $250,000 limit should be placed at $50,000 for residential real estate and no more than $250,000 for commercial loans.

Evaluations

The use of evaluations should be limited beyond that set forth in the proposal. Evaluations should not be used for any loan renewal dated 24 months from the last appraisal.

Allowing unlicensed individuals to perform evaluations begs for abuse. Allowing sales professionals, often referred to as real estate agents, to perform valuations is ludicrous. Real estate agents neither receive training in appraisal practice nor can be viewed as unbiased if they are acting in a market they work in. If real estate agents can do appraisals without a license then why not allow appraiser's to sell real estate without a license?

When evaluations are used as a tool, institutions should be required to have a lending officer who is trained in valuation perform the evaluation and it should be signed off by an executive of the institution. This would likely eliminate the use of this practice on riskier transactions below the threshold. Obviously there is still the potential for abuse, but if the threshold was lowered to appropriate levels the abuses would be minimal

No evaluation should be allowed for higher risk real estate related loans for any of the items outlined on page 34 which include:

Loans in excess of loan to value limits
Atypical properties
Real estate outside an institutions traditional lending market
Properties in transition markets
Subsequent transactions with significant risk
Borrowers with high risk characteristics.

The proposed for a more ***"detailed evaluation"*** in the above instances begs the question of sanity. Each of these areas should require an appraisal.

Third Party Arrangements

It would appear that this would allow a lender, at least on the surface, to shift a responsibility. While eventually responsible for bad valuations, institutions can accept the criticism without being directly responsible for actually procuring/ordering the bad appraisal.

This would encourage the use of appraisal brokerage firms, most of whom charge an institution a set fee and garner a profit by ordering appraisals from the least expensive provider. The appraisal brokerage firms, also called appraisal management companies, are often volume providers without concern for quality or accuracy, and are not regulated. They typically push appraisers to meet unrealistic time frames and are willing to pay 1/3 the fee required to complete the job in a competent manner.

Institutions can charge an appraisal fee to a borrower and then order a less expensive product. It is also a current practice for lenders to own appraisal management entities and share the profit difference between the fee charged the borrower and the actual cost of the appraisal.

It is unconscionable that the lender could make a profit off a portrayed fee and then provide the consumer with a product of inferior quality. How can this be allowed?

Automated Valuation Models – AVMs p52
Agencies should discourage or prohibit the use of AVMs except as a source of secondary quality control and documentation. The sole use of AVMs for valuations on loans above the threshold is dangerous and an unnecessary risk. AVMs have been a source of lender abuse and will continue to be. They should not be used or encouraged for any initial loan or any renewal beyond, requiring additional funds after 24 months from the loan origination.

AVMs cannot report property condition. Next to location, condition is very often a key component of value. AVM's cannot differentiate between actual sale transactions and foreclosure recordings and often use the recorded buy-back price on a foreclosure as a sale price.
Sales Concessions p 63
Sales concessions distort market value and understate loan risks. The only way to address seller concessions is to completely prohibit the practice. Sellers paying for buyer closing costs, lender origination fees, prepaid expenses or discount points inflate the sales price and are rarely reported. The sales price thus equals the value of the real estate plus the cost of financing.

The next time the transaction is used as a comparable sale in the market place the gross sales price is used without the comp being adjusted for the non-reported seller contributions. This ramps up values based on sellers continually requiring the purchase price to be raised to cover the seller concessions that are being paid.

Integrity in the lending and valuation process is eroded through seller concessions. Due to seller concessions, loans placed on the books as having 90 or 95% loan to value ratios are often 100% or more loan to value transactions.

Prohibit seller concessions but allow lenders to loan the borrower these costs even though it would show as 100% or more loan. At least in the role of oversight you would be aware of what you were looking at. The Consumer would have a truer value of the real estate they own or purchased and could maker wiser decisions.

Obviously a portion of these fees go to lender overhead and profit. Likely this would cut into some of the outrageous profits a few lenders have pocketed off individual loans.

Mortgage Backed Securities p 50
Guidelines set forth in this document will greatly influence MBS's. **Prohibit the purchase or sale of MBS's that contain any loan that was valued using an AVM or those in which the transaction included seller concessions.**

Requiring that MBS's purchased or sold by regulated institutions had full appraisals and that no seller concessions were included in purchase transactions would revamp confidence and wellness into a sick system. The American Consumer deserves this, further we might regain some credibility from foreign purchasers of our MBS's.

Why would you trust anything Fannie and Freddie have done in the past? If they were an individual who had deceived the public trust as many times as they have in the past, they would have forever been prohibited from participating in the industry.

Related Concerns

Time Frames
The thought that loans need to be made overnight and that appraisals must be completed in unrealistic time frames have also contributed to the current economic crisis. What the industry needs is a level playing field. **Require that valuations not be deliverable in less than 5 to 7**

days from the appraiser's receipt of the engagement letter for residential appraisals and longer for larger commercial appraisals.

Further, require that each appraisal ordered be sent to the borrower. The practice of many institutions of ordering and providing only the appraisal that made the deal work has got to stop. At loan closing, the borrower should sign acknowledgment that they received, reviewed and accepted the appraisal finding at least three days prior to closing.

And finally, the appraisal fee the borrower pays should be the fee the appraiser is paid. If a management company is used for attaining the appraisal, this management fee should be stated forthright in a lenders disclosure at the onset of the loan application and should be the lenders responsibility.

As an example, **the current practice of allowing lenders to charge $375 for an appraisal fee to the consumer and then getting a $175 appraisal through an appraisal management company is a breach of public trust.** Reasonableness dictates that a quality product that is reliable will not generally be obtained in this process**.** VA pays $400 for an appraisal, acknowledging that a reasonable fee needs to be paid for the quality product they demand. This should be the standard and minimum.

Handling of REO Real Estate

> "Do as I say and not as I do"
> "Penney wise and pound foolish"

The above sayings come to mind in allowing institutions to use brokers with a potential vested interest to value REO properties and then to place these properties on the market using their figures. The use of BPO's (Brokers Price Opinions) for valuing foreclosed real estate goes against the spirit of fair, unbiased valuations by trained professionals. It could be akin to the funeral home owner being in charge of CPR in the heart wing of a hospital. He may be less expensive but is he really the one you want?

BPOs are used to set the value for liquidation of REOs. Usually the agent doing the BPO will be the one in charge of listing the property. The tendency is low and quick. This leaves money on the table for the institution and can further harm the equity position of homeowners actually still paying their mortgage. Realtors have a job and are generally very professional at it, doing BPOs for lenders is not their expertise and should not be allowed. This practice is apparently not allowed in many states.

I appreciate you consideration of these concerns. Please appropriately address all areas of concern. The American Public deserves your attention.

Sincerely,

Sue S. Miller

Sue S. Miller, SRA