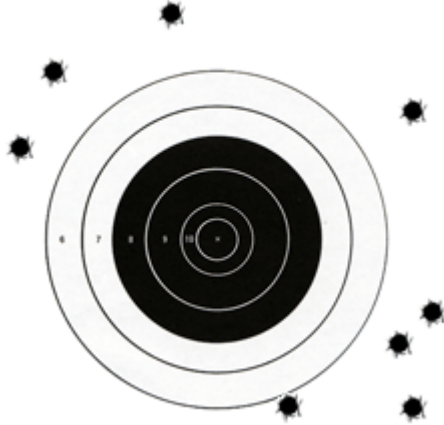


The Home Valuation Code of Conduct – will not help!

By Lee Walsh

The Home Valuation Code of Conduct has missed the mark.



The N.Y. Attorney General made Fannie and Freddie roll over and agree to sweeping changes in the way mortgage appraisals are ordered. The [agreement](#) completely isolates the appraiser from the real estate agent and the mortgage broker. By agreeing with N.Y. both Fannie and Freddie avoid threatened investigation and legal action.

How much business will this affect? According to the National Assoc. of Mortgage Brokers ([NAMB](#)) Mortgage brokers account for more than 50% of all originations. So the short answer is this new agreement will affect the industry in a tremendous way.

How will this affect our day to day business? The jury is still out on this but it already raises a few important questions. The agencies and the lenders will now be forced to create and manage some type of approved list. There will be big questions about who will collect the appraisal fees. Will the practice of the payment made at “the door” directly to the appraiser be eliminated by this new agreement? I think it will. It looks like the ability for the borrower to pay the appraiser directly is now gone. Will the wholesale lenders try to hold the broker accountable for collection problems created by bad checks from borrowers? The current agreements in place between a wholesale lender and a broker would put this liability on the broker.

Currently a broker has the ability to compare different wholesale lenders to get the best program for the borrower. The appraisal will now be ordered by the wholesale lender. If the broker will be prohibited from the appraisal ordering process this will eliminate the portability of an appraisal making it very difficult and costly to change lenders. Wholesale lenders will love this.

Is the unethical practice of attempting to influence a valuation by an appraiser limited to mortgage brokers? The simple answer is no. Loan officers who work for retail lenders

can commit the same dumb acts that brokers do. How you are licensed has nothing to do with it.

Is it improper to discuss with an appraiser the estimated value or the value you need to make the loan work? The new agreement also addresses this issue. I think it depends on the reason a loan officer would discuss the value. Over the years I have had many conversations with appraisers about the value of the subject property. The reason was not to attempt to sway the determination of value it was to avoid a costly appraisal if there was not a chance of getting the value need to make the loan. These discussions help me understand my market better. This was a courtesy that the appraiser extended.

Will this hurt the mortgage broker community? I think it will harm borrowers more that it will broker. The cost of an appraisal will increase because of the additional burden placed on everyone involved, and it will greatly restrict a broker's ability to shop a loan package for the best terms for the borrower. It also creates another bureaucracy that will oversee the new appraisal process. Putting up a wall between the mortgage broker, the real estate agent, and the appraiser is not the answer.

**** Update – since I wrote this article there has been some major opposition to this agreement. This was released on May 27th, 2008.

OCC Opposes GSE-OFHEO-NY AG Appraisal Deal

On May 27, in a letter addressed to Office of Federal Housing Enterprise Oversight (OFHEO) Director James Lockhart, Comptroller of the Currency (OCC) John Dugan expressed strong opposition to the Appraiser Code of Conduct ("Code") agreement among OFHEO, the government-sponsored enterprises (GSEs), and New York State Attorney General Andrew Cuomo, echoing MBA's sentiment that was expressed in a comment letter sent to the GSEs and OFHEO on April 30. OCC noted the agreement would: 1) undermine rather than enhance the reliability of appraisals; 2) raise costs for lenders and consequently for consumers; and 3) disrupt appraisal processes, which are generally functioning well. Moreover, OCC, sharing MBA's position, cited the agreement as fatally flawed because OFHEO failed to follow rulemaking protocol outlined in the Administrative Procedures Act. In addition, the agreement is inconsistent with well-established federal regulations and guidance.

It is also important to note the comment letter submitted to the GSEs and OFHEO from Office of Thrift Supervision (OTS) Deputy Director Timothy Ward on April 30 opposing the Code. OTS believes "sufficient laws, regulations, and guidance exist to achieve the universal goal of appraisal independence," regardless of whether appraisals are conducted in-house or outsourced. The letter points out that the Code and Agreement were prepared without necessary regulator and industry counsel and that they fail to consider the implications for OTS-regulated lenders.

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