

April 22nd Questions from HVCC Webcast

1. In your handouts you state HVCC applies to loans delivered to Fannie Mae; verbally you stated it applies to Fannie Mae AND Freddie Mac, which is it? Or is it both Fannie AND Freddie?

The handouts only referenced Fannie Mae as the material was being presented by Fannie Mae. When I addressed the Home Valuation Protection Program and Cooperation Agreement I mentioned Freddie Mac as they were a party to the agreement. They are subject to the same requirements as Fannie Mae. It was also noted that there was a link to the document and time should be spent reading the documents.

2. Who can order an appraisal?
 - a. Are underwriters making the decision on the application considered production staff where they have approval/denial authority?

The following is from Fannie Mae FAQs #16 dated March, 2009:

The term “loan production staff” is not defined in the Code. However, the FAQs prepared by the federal agencies on the agencies’ appraisal regulations specify as follows:

“The loan production staff consists of those responsible for generating loan volume or approving loans, as well as their subordinates. This would include an employee whose compensation is based on loan volume or the closing of a loan transaction. Employees responsible for the credit administration function or credit risk management are not considered loan production.”

Using this interpretation the answer to your question is “yes”.

- b. Can an underwriter order the appraisal? She is not in production, nor origination, but only underwrites the loan.

But does she have approval/denial authority? If not then as long as she does not fit into the definition noted above, she can probably order the appraisal.

- c. We have a wholesale area with two wholesale coordinators. The wholesale coordinators basically set-up, review and underwrite the files received from the brokers. They do not receive any commissions and paid strictly a base salary. Are they allowed to order appraisals?

The same answer as noted in “b” above would apply as long as they are not part of loan production.

- d. My credit union does not pay their production staff bonus or commission pay based on production, they are on straight salary. Can they order the appraisal?

The Code is very specific regarding loan production staff; in particular Section III-B which starts out by saying “All members of the lender’s loan production staff, as well as any person . . . “The answer to your question is “no” they can not order the appraisal since they are part of the loan production staff.

- e. If the pre-approved list of appraisers is selected by separate individual or committee, will this allow for the mortgage loan officer or mortgage loan processor select from the list and order the appraisal?

No, as long as the loan officer and loan processor are part of “production” as noted in Section III-B and FAQ #16, they can not order the appraisal.

- f. Is a loan processor, who is not compensated by commissions, but do receive a fixed incentive (\$25/loan) be allowed to order an appraisal?

No, they can not order an appraisal to be used in a loan sold to Fannie Mae since they are a part of the loan production staff and receive a fixed incentive.

- g. Could the appraisals be ordered by a department other than the real estate department (i.e. business lending analyst) when both departments report to the same manager?

Yes, as long as that manager is independent of the loan production staff and process.

3. Appraiser selection

- a. Can the Lending Manager select a pre-approved appraisal list?

That depends; if the Lending Manager is part of the loan production staff then no they can't order an appraisal for a loan being sold to Fannie Mae.

- b. Can a Lending Asst. and Mortgage Loan Processor select an appraiser from a pre-approved appraiser list?

There is no prohibition against a pre-approved appraiser list, however if the Lending Asst. or Mortgage Loan Processor is part of the loan production staff then no they can not order an appraisal for a loan being sold to Fannie Mae.

- c. We have sent a letter to all the appraisers we have used in the past five years saying we are removing them from our approved appraiser list as of 4/31/2009. This way we have removed all appraisers we have not been comfortable with before the May 1st deadline. We are then asking the appraisers we want to keep to submit us updated information. Would you recommend this be done?

That is really not for me to say. Fannie Mae delegates the selection of appraisers and the appraisal process to the lender. There is no prohibition in the HVCC regarding a pre-approved appraiser list.

4. Does the Loan Production Staff include processors or underwriters?

Please review Fannie Mae FAQ #16.

5. If the loan amount is less 250k then we cannot require an appraisal. So if the member provides us a copy of an appraisal from another institution then can we not use this? Example: We require the mortgage be certified to us on the first mortgage but will accept an appraisal not certified to us on a home equity loan?

Not quite sure how this fits but Fannie Mae typically requires an appraisal for a loan being sold to Fannie Mae. The HVCC allows for “portability” of an appraisal between lenders however the original lender would have to provide the second lender with written assurances that the original appraisal was ordered in compliance with the Code. See Section III-A of the Code.

6. In section VIII of the code it says that the lender must certify that the appraisal was obtained in compliance with the Code. Does this certification have to be given to the applicant with the appraisal copy or just to other lenders, or to Freddie Mac?

Fannie Mae has interpreted this section to mean that if a lender is selling us loans on and after May 1, 2009 their normal Selling Guide representations and warranties, which includes compliance with the Code of Conduct, apply. There is no special certification to give to the borrower or Fannie Mae. Fannie Mae will monitor compliance with the Code through a lenders annual operational review.

7. In your example, Lender A through mortgage broker obtains appraisal that is ultimately given to Lender B. Lender B may accept the original appraisal provided it obtains written assurance that Lender A followed the Code’s requirements- Who obtains the written assurance- broker or Lender B From lender A and what constitutes “written assurance.”

Lender B from Lender A. The Code doesn’t address what constitutes “written assurance” therefore it is up to the lenders discretion.

8. In section VI of the code, it says that we should test 10% of the appraisals used by the lender. Is this for just loans that are closed, or would this also include appraisals for loans not closed?

The Code isn’t specific. However, if you are a Fannie Mae Seller/Servicer and you are complying with the Fannie Mae QA requirements as noted in the Selling Guide, then we have interpreted you meet Section VI of the Code.

9. Am I in violation if an appraiser rents office space from one of our small branches?

I guess it would depend on the lease/arrangement you have with the appraiser. There is certainly nothing in the Code that prohibits that scenario. However if he/she is receiving favorable treatment as a tenant as long as he/she comes in at the number all the time, then you and he/she have a problem. Numerous other scenarios can apply as well.

NCUA

1. May a member pay the appraiser directly on a home equity loan that is not sold to a GSE?
If the loan qualifies as a federally related transaction or otherwise requires a state-certified or state-licensed appraisal pursuant to Part 722 of the NCUA Rules and Regulations, the member should not directly engage the appraiser. The transaction would not meet Part 722’s standards for appraiser independence. From a practical standpoint, it would also be a poor internal control for a credit union to accept an appraisal a loan applicant paid for.

2. Must a FCU's list of appraisers be approved by their Board of Directors?

Ideally this information would be a part of a credit union's loan policy, which the board of directors should approve. At a minimum, the policy should include selection criteria and procedures to evaluate and monitor the performance of persons who perform appraisals or evaluations.