

Home Valuation Code of Conduct

I. Appraiser Independence Safeguards

A. An “appraiser” must be, at a minimum, licensed or certified by the state in which the property to be appraised is located.

B. No 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, shall influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner including but not limited to:

- (1) withholding or threatening to withhold timely payment or partial payment for an appraisal report;
- (2) withholding or threatening to withhold future business for an appraiser, or demoting or terminating or threatening to demote or terminate an appraiser;
- (3) expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
- (4) conditioning the ordering of an appraisal report or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary value estimate requested from an appraiser;
- (5) requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report prior to the completion of the appraisal report, or requesting that an appraiser provide estimated values or comparable sales at any time prior to the appraiser’s completion of an appraisal report;
- (6) providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;
- (7) providing to an appraiser, appraisal company, appraisal management company, or any entity or person related to the appraiser, appraisal company, or appraisal management company, stock or other financial or non-financial benefits;
- (8) allowing the removal of an appraiser from a list of qualified appraisers, or the addition of an appraiser to an exclusionary list of disapproved appraisers, used by any entity, without prompt written notice to such appraiser, which notice shall include written evidence of the appraiser’s illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) or state licensing standards, substandard performance, improper or unprofessional behavior or other substantive reason for

removal (except that this prohibition will not preclude the management of appraiser lists for bona fide administrative reasons based on written, management-approved policies);

(9) ordering, obtaining, using, or paying for a second or subsequent appraisal or automated valuation model (AVM) in connection with a mortgage financing transaction unless: (i) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or (ii) unless such appraisal or automated valuation model is done pursuant to written, pre-established bona fide pre- or post-funding appraisal review or quality control process or underwriting guidelines, and so long as the lender adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest value; or

(10) any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality or violates law or regulation, including, but not limited to, the Truth in Lending Act (TILA) and Regulation Z, or the USPAP.

C. Nothing in this section shall be construed as prohibiting the lender (or any third party acting on behalf of the lender) from requesting that an appraiser (i) provide additional information or explanation about the basis for a valuation, or (ii) correct objective factual errors in an appraisal report.

II. Borrower Receipt of Appraisal

The lender shall ensure that the borrower is provided a copy of any appraisal report concerning the borrower's subject property promptly upon completion at no additional cost to the borrower, and in any event no less than three days prior to the closing of the loan. The borrower may waive this three-day requirement. The lender may require the borrower to reimburse the lender for the cost of the appraisal.

III. Appraiser Engagement

A. The lender or any third party specifically authorized by the lender (including, but not limited to, appraisal companies, appraisal management companies, and correspondent lenders) shall be responsible for selecting, retaining, and providing for payment of all compensation to the appraiser. The lender will not accept any appraisal report completed by an appraiser selected, retained, or compensated in any manner by any other third party (including mortgage brokers and real estate agents). The lender may accept an appraisal prepared by an appraiser for a different lender, including where a mortgage broker has facilitated the mortgage application (but not ordered the appraisal), provided the lender: (1) obtains written assurances that such other lender follows this Code of Conduct in connection with the loan being originated; and (2) determines that such appraisal conforms to its requirements for appraisals and is otherwise acceptable.

B. All members of the lender's loan production staff, as well as any person (i) who is compensated on a commission basis upon the successful completion of a loan or (ii) who reports, ultimately, to any officer of the lender not independent of the loan production staff and process, shall be forbidden from (1) selecting, retaining, recommending, or influencing the selection of any appraiser for a particular appraisal assignment or for inclusion on a list or panel of appraisers approved to perform appraisals for the lender or forbidden from performing such work; and (2) having any substantive communications with an appraiser or appraisal management company relating to or having an impact on valuation, including ordering or managing an appraisal assignment. If absolute lines of independence cannot be achieved as a result of the lender's small size and limited staff, the lender must be able to clearly demonstrate that it has prudent safeguards to isolate its collateral evaluation process from influence or interference from its loan production process.

C. Any employee of the lender (or if the lender retains an appraisal company or appraisal management company, any employee of that company) tasked with selecting appraisers for an approved panel or substantive appraisal review must be (1) appropriately trained and qualified in the area of real estate appraisals, and (2) in the case of an employee of the lender, wholly independent of the loan production staff and process.

IV. Prevention of Improper Influences on Appraisers

A. In underwriting a loan, the lender shall not utilize any appraisal report:

(1) prepared by an appraiser employed by:

- (a) the lender;
- (b) an affiliate of the lender;
- (c) an entity that is owned, in whole or in part, by the lender; or
- (d) an entity that owns, in whole or in part, the lender.

(2) prepared by an appraiser

- (a) employed,
- (b) engaged as an independent contractor, or
- (c) otherwise retained by

any appraisal company or any appraisal management company affiliated with, or that owns or is owned, in whole or in part by, the lender or an affiliate of the lender.

B. Section IV.A. shall apply *unless*:

- (1) the appraiser or, if an affiliate, the company for which the appraiser works, reports to a function of the lender independent of sales or loan production;
- (2) employees in the sales or loan production functions of the lender have no involvement in the operations of the appraisal functions and play no role in selecting, retaining, recommending, or influencing the selection of any appraiser for any particular appraisal assignment or for inclusion on a list or panel of appraisers approved to perform appraisals for the lender or forbidden from performing such work;
- (3) employees in the sales or loan production functions of the lender are not allowed to have any substantive communications with an appraiser, appraisal company, or appraisal management company relating to or having an impact on valuation or to be provided information about which appraiser has been given a particular appraisal assignment before completion of that assignment;
- (4) the lender, or its agents, and any appraisal company or appraisal management company providing the appraisal to the lender do not provide the appraiser any estimated or target value of the property or the loan amount applied for (except that a copy of the sales contract for purchase transactions may be provided);
- (5) the appraiser's compensation does not depend in any way on the value arrived at in any appraisal or upon the closing of the loan for which the appraisal was completed;
- (6) the lender and any appraisal company or any appraisal management company providing the appraisal to the lender has adopted written policies and procedures implementing this Code of Conduct, including, but not limited to, adequate training and disciplinary rules on appraiser independence (including the principles detailed in Part I of this Code of Conduct) and has mechanisms in place to report and discipline anyone who violates these policies and procedures;
- (7) the lender's appraisal functions are either annually audited by an external auditor or are subject to federal or state regulatory examination, and, unless prohibited by law, the lender promptly provides to Fannie Mae or Freddie Mac the results of any adverse, negative, or irregular findings of such audits and examinations indicating non-compliance with any provision of this Code of Conduct, whether or not the examination was conducted for the purpose of determining compliance with this Code of Conduct; and
- (8) the lender and any entity described in section IV.A. providing the appraisal to the lender recognize that, once the Independent Valuation Protection Institute is established, the Institute will receive complaints for review and referral regarding non-compliance with the Code of Conduct. Referrals and reports shall be made to Fannie Mae and/or Freddie Mac regarding such complaints and the Institute will provide information on the results of complaint reviews to Fannie Mae and/or Freddie Mac and make them available to the other parties to the Home Value Protection Program and Cooperation Agreement.

C. In underwriting a loan, the lender shall not use an appraisal report prepared by an entity that is affiliated with, or that owns or is owned, in whole or in part by, another entity that is engaged by the lender to provide other settlement services, as that term is defined in the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 et seq., for the same transaction, *unless the entity that provides the appraisal:*

(1) has adopted written policies and procedures implementing this Code of Conduct, including, but not limited to, adequate training and disciplinary rules on appraiser independence (including the principles detailed in this Code of Conduct) and has mechanisms in place to report and discipline anyone who violates these policies and procedures;

(2) recognizes that, once the Independent Valuation Protection Institute is established, the Institute will receive complaints for review and referral regarding non-compliance with the Code of Conduct. Referrals and reports shall be made to Fannie Mae and/or Freddie Mac regarding such complaints and the Institute will provide information on the results of its review of such complaints to Fannie Mae and/or Freddie Mac and make them available to the other parties to the Home Value Protection Program and Cooperation Agreement.

D. Notwithstanding the requirements herein, the lender also may use in-house staff appraisers to (i) order appraisals, (ii) conduct appraisal reviews or other quality control, whether pre-funding or post-funding, (iii) develop, deploy, or use internal automated valuation models, or (iv) prepare appraisals in connection with transactions other than mortgage origination transactions (*e.g.* loan workouts), if it complies with the terms of this Code of Conduct.

E. The provisions of this section do not apply to institutions (including non-banking institutions) that meet the definition of a “small bank” as set forth in 12 U.S.C. § 2908, and which Freddie Mae or Fannie Mae determines would suffer hardship due to the provisions, and which otherwise adhere to this Code of Conduct.

V. The Independent Valuation Protection Institute

An Independent Valuation Protection Institute (Institute) shall be created as approved by the parties. Subject to section IX, when the Institute is established, the lender will provide information to appraisers and borrowers regarding the availability of the Institute's services, which are expected to include: (1) a telephone hotline and email address to receive any complaints of Code of Conduct non-compliance, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, which the Institute will review and report as provided in IV.B(8) and IV.C(2) of this Code of Conduct; and (2) the publication and promotion of best practices for independent valuation. The lender shall not retaliate, in any manner or method, against the person or entity that makes a complaint to the Institute.

VI. Appraisal Quality Control Testing

The lender agrees that it shall quality control test, by use of retroactive or additional appraisal reports or other appropriate method, a randomly selected 10 percent (or other bona fide statistically significant percentage) of the appraisals or valuations that are used by the lender, including the results of automated valuation models, broker's price opinions, or "desktop" evaluations. The lender shall provide to Fannie Mae or Freddie Mac a report of any adverse, negative, or irregular findings of such quality control testing, and any findings indicating non-compliance with any provision of this Code of Conduct, with respect to loans sold to Fannie Mae and Freddie Mac respectively, and the Enterprise may enforce all applicable rights and remedies, including requiring the lender to repurchase mortgages or the Enterprise's participation interest in mortgages.

VII. Referrals of Appraisal Misconduct Reports

Any lender that has a reasonable basis to believe an appraiser or appraisal management company is violating applicable laws, or is otherwise engaging in unethical conduct, shall promptly refer the matter to the applicable State appraiser certifying and licensing agency or other relevant regulatory bodies.

VIII. Representations and Warranties

A lender shall certify, warrant, and represent that the appraisal report was obtained in a manner in compliance with this Code of Conduct. If the Enterprise determines, on its own or from a referral made by the Institute, that a lender is in breach of a material aspect of this Code of Conduct or in violation of a provision of the Code by a complaint referred from the Institute, the Enterprise will enforce all applicable rights and remedies, including suspension or termination of the lender's eligibility to sell loans to the Enterprise, if the lender fails to remediate.

IX. Scope of Code

Nothing in this Code of Conduct shall be construed to establish new requirements or obligations that: (1) require a lender to obtain a property valuation, or to use any particular method for property valuation (such as an appraisal or automated valuation model) in connection with any mortgage loan or mortgage financing transaction; (2) affect the acceptable scope of work for an appraiser in connection with a particular assignment; or (3) require the lender or any third party acting on behalf of the lender to take any action prohibited by federal or state law or regulation.

Home Valuation Code of Conduct Frequently Asked Questions (FAQs)

January 2009

To help enhance the integrity of the home appraisal process in the mortgage finance industry, in March 2008, Fannie Mae entered into an agreement with our regulator – the Federal Housing Finance Agency (FHFA) (then the Office of Federal Housing Enterprise Oversight) – and the New York Attorney General’s office to adopt certain policies relating to appraisals for loans delivered to us. Following a public comment period, the Home Valuation Code of Conduct has been modified and will be effective for single-family mortgage loans (except government-insured loans) that are originated on or after May 1, 2009, and delivered to Fannie Mae.

Scope of Coverage

Q1. What loans are affected by the new Home Valuation Code of Conduct?

Fannie Mae has agreed to adopt the Home Valuation Code of Conduct (“the Code”) for all conventional, single-family loans originated on or after May 1, 2009, that are delivered to Fannie Mae. For purposes of the Code, origination date means the date of the application. The Code will not apply to multifamily loans, or to loans insured or guaranteed by a federal agency; the Code only applies to 1- to 4-unit single-family loans sold to Fannie Mae. The Code will not apply to loans sold to Fannie Mae on or after May 1, 2009 that were originated prior to May 1, 2009.

Q2. What are the professional requirements for an appraiser under the Code?

The Code requires that an appraiser must be licensed or certified by the state in which the property to be appraised is located.

Q3. Does the Code allow an appraiser to update an appraisal for another lender?

Yes. The Code does not prevent an appraiser from performing an update of an appraisal for another lender.

Q4. Does the Code apply outside of New York State?

Yes. There is no geographic limitation.

Q5. Who besides Fannie Mae has agreed to adopt the Code? Are the Federal Home Loan Banks participating? The FHA?

As of this date, only Fannie Mae and Freddie Mac have agreed to adopt the Code.

Q6. After May 1, 2009, is it permissible for Fannie Mae to purchase private label securities backed by mortgage loans that do not meet the requirement of the Code?

Yes. The Code applies only to 1- to 4-unit single-family loans sold to Fannie Mae by mortgage originators. It does not extend to Fannie Mae’s investments in mortgage-related securities.

Q7. Does the Code require lenders to obtain appraisals where they were under no such requirement pursuant to the Fannie Mae *Selling Guide*?

No, nothing in the Code requires a lender to obtain a property valuation, or to use any particular method for property valuation. Nor does the Code affect the acceptable scope of work for an appraiser in connection with a particular assignment.

Q8. How does Section I.B.(8) impact how lenders may remove appraisers from a list of qualified appraisers?

Section I.B.(8) addresses the removal of an appraiser from a list of qualified appraisers in connection with influencing or attempting to influence the outcome of an appraisal. Any such removal would be subject to the requirements of the process outlined in that section. However, Section I.B.(8) does not preclude the management of appraiser lists for bona fide administrative reasons based on written, management-approved policies. Also, Section IV.B.(6) provides for lenders to have written policies and procedures implementing the Code including rules on appraiser independence, and to have mechanisms in place to report and discipline anyone who violates these policies and procedures.

Q9. Does Section I.B.(9) specifically prohibit a lender from ordering a second appraisal?

No. Section I.B.(9) only prohibits a lender from ordering a second appraisal when they are attempting to influence the outcome of the first appraisal and are now “value-shopping.” As a risk control measure for certain loan products, it may be common for a lender to order more than one appraisal, and this subsection does not prohibit that practice.

Q10. Does the Code specifically prohibit communication with an appraiser by a real estate agent?

No.

Q11. Does Section II of the Code require the lender to provide the appraisal free of charge?

No. The Code requires the lender to provide, free of charge, a “copy” of any appraisal report completed in association with a specific loan. The lender may require the borrower to reimburse the lender for the cost of the appraisal.

Q12. What is the time frame for providing the “copy” of the appraisal?

The lender can provide the copy promptly upon completion of the appraisal, but no less than three **business** days prior to closing. The lender may use any means to provide the copy, including but not limited to via mail, e-mail (electronic message), overnight delivery, etc., as long as the borrower receives the copy no less than three business days prior to closing.

Q13. Does the Code prohibit an appraiser from collecting payment for the appraisal directly from the borrower?

Yes, for loans to be delivered to Fannie Mae. The Code requires the lender or any third party specifically authorized by the lender to select, retain, and provide for all compensation to the appraiser.

Q14. Who should be considered the “loan production staff” for purposes of achieving appraiser independence?

The term “loan production staff” is not defined in the Code. However, the FAQs prepared by 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 staff.”

Q15. What is the definition of a “correspondent” lender?

A “correspondent” is a third-party entity that may originate and underwrite the mortgage. The correspondent closes the mortgage in its own name with its own funds, and sells it to the lender. The mortgage is sold to Fannie Mae by the lender.

Q16. Does the Code prohibit the use of automated valuation models?

No, the Code does not place any restrictions on the use of automated valuation models or any other valuation product.

Q17. May lenders rely on appraisals ordered by settlement service firms?

Yes. Settlement service firms may order appraisals if they comply with the Code, Sections IV.C.(1) and (2).

Selection of an Appraiser

Q18. When selecting an appraiser, may lenders use a pre-approved appraiser list or panel?

Yes. Lenders may use a pre-approved list or panel to select a residential appraiser, provided that (1) any employees of the lender tasked with selecting appraisers for the list are independent of the loan production staff; and (2) the loan production staff is not involved in selecting appraisers off the list for particular appraisal assignments.

Q19. May a servicer use an affiliate company to order appraisals for borrower-initiated private mortgage insurance cancellation based on current value?

Yes. The Code does not apply to appraisals for cancelling mortgage insurance based on current value. The Code is specific to “a mortgage financing transaction,” and cancellation of mortgage insurance is not “a mortgage financing transaction.” The Fannie Mae *Servicing Guide* states that “To determine the current appraised value of the property, the servicer must select an appraiser, order a new appraisal (which must be based on an inspection of both the interior and exterior of the property and be prepared in accordance with our appraisal standards for new mortgage originations).”

Q20. Some lenders have proprietary automated origination systems that include a process for ordering appraisals. How does the Code impact those systems?

The lender must review its systems to ensure that the selection of appraiser process is in compliance with the provisions of the Code.

In-House Appraisers

Q21. May in-house appraisers prepare appraisal reports?

Yes, in-house appraisers may prepare appraisal reports if the conditions of Section IVB. are met.

Q22. May a lender's in-house appraiser adjust the value on an appraisal during an appraisal review as part of a pre-funding or post-funding quality control process?

Yes, a lender may use an appraisal that has been adjusted by an in-house appraiser during a review process. The Code does not prohibit the underwriting of an appraisal by a lender's underwriting staff. The Code does not prohibit a lender's due diligence in originating a loan.

Q23. May a correspondent lender use in-house appraisers?

Yes, a correspondent lender may use in-house appraisers if they meet the criteria in Section IV.B. of the Code.

Q24. Are any institutions excluded from these restrictions on the use of in-house appraisers?

Yes, the Agreement signed by Fannie Mae permits Fannie Mae to exclude "small banks," if they would suffer hardship due to those restrictions. An institution qualifies as a "small bank" if it has aggregate assets of not more than \$250,000,000 and meets the other criteria set forth in 12 U.S.C. Section 2908. Institutions excluded from the in-house appraiser restrictions must comply with the other provisions of the Code and must meet all appropriate standards of appraiser independence.

Appraisal Management Companies

Q25. Is a lender required to use an appraisal management company for ordering appraisals?

No. A lender may order appraisals directly from an individual appraiser.

Q26. May an appraisal management company affiliated with, or that owns or is owned in whole or in part by the lender or a lender-affiliate, order appraisals?

Yes, an appraisal management company affiliated with, or that owns or is owned in whole or in part by the lender or a lender-affiliate, may order appraisals if the appraisal management company meets the criteria of Section IV.B. of the Code.

Q27. When a lender uses an appraisal management company, the appraisal management company is responsible for retaining and paying the appraiser. Is it likewise permissible for a mortgage broker to use an appraisal management company, since the mortgage broker does not technically retain or pay the appraiser?

No. The Code prohibits lenders from relying on an appraisal where the broker had a role in selecting, retaining, or compensating the appraiser.

Q28. May a mortgage broker provide the lender with an approved appraiser list for the lender to use when ordering appraisals for that particular broker?

No.

Portability of the Appraisal

Q29. May an appraisal be transferred to a lender from a correspondent lender and, if so, under what circumstances?

Yes, a lender may accept an appraisal from a correspondent lender that complies with the Code.

Q30. A mortgage broker submits a loan to lender A, which orders an appraisal. The broker later decides to submit the loan to lender B because it is offering better terms, or for another reason. May the appraisal obtained by lender A be used by lender B (assuming the mortgage broker has no control over or involvement in the assignment)?

Yes, a lender may accept an appraisal from a different lender that complies with the requirements of the Code and in particular Section III.A. in connection with the loan being originated. Lender A must be named as client on the appraisal report.

Q31. Lender A (an approved Fannie Mae Seller/Servicer) originates and closes a loan in its name, but sells it to lender B (another Fannie Mae approved Seller/Servicer), which in turn sells that loan to Fannie Mae. Is lender B under any obligation to obtain a new appraisal?

No. Lender B may buy a closed loan from Lender A and sell the loan to Fannie Mae without a new appraisal if Lender B can represent and warrant that any appraisal conducted in connection with the loan conforms to the Code.

Mortgage Brokers

Q32. May a lender accept an appraisal prepared by an appraiser that was ordered by a mortgage broker?

No. The Code does not allow a lender to accept an appraisal prepared by an appraiser that was ordered by a mortgage broker as noted in Section IIIA. of the Code.

Q33. May a mortgage broker order an appraisal directly from an appraisal management company that was specifically authorized by the lender?

No. The Code prohibits brokers from ordering appraisal services.

Q34. Does the Code permit a mortgage broker to select an appraiser from the lender's list of approved appraisers, if the lender is responsible for the relationship with the appraiser, including compensation?

No. The Code prohibits lenders from relying on an appraisal where the broker had a role in selecting, retaining, or compensating the appraiser.

Quality Control

Q35. Does the quality control requirement as noted in Section VI of the Code apply to all valuations completed by a lender or just those loans originated and sold to Fannie Mae?

The quality control requirement only applies to those loans that were originated and sold to Fannie Mae. It is important to note that our current quality control requirements, as noted in the *Selling Guide*, Part I, Section 301.01, Quality Assurance System, will satisfy the requirement of Section VI.

Q36. Does the Code require a lender to report appraisers to the applicable State certifying and licensing agency?

Yes, if a lender has reason to believe an appraiser is violating applicable laws or otherwise engaging in unethical conduct, they shall promptly refer the matter to the applicable board or agency.



Independent Valuation Protection Institute (IVPI)

Q37. What is the status of the IVPI?

The structure of the IVPI has not yet been determined and the IVPI has not yet been established. Therefore, the provisions in the Code regarding the IVPI are not yet effective.

View the Code on eFannieMae.com.