

RESCINDED

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Transmittal – See OCC 2020-11

Real Estate Appraisal -- Final Rule: Final Rule

Purpose

This issuance informs you that the Office of the Comptroller of the Currency (OCC) has issued a final rule amending its real estate appraisal regulation, 12 CFR Part 34, on June 7, 1994. The attached final rule addresses the use of real estate appraisals and real estate evaluations to support real estate-related financial transactions by national banks. The final rule is effective immediately.

To

Chief Executive Officers of
National Banks, Department and
Division Heads and all Examining
Personnel

Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) required member agencies of the Federal Financial Institutions Examination Council (FFIEC) and the Resolution Trust Corporation (RTC) to issue real estate appraisal regulations. The OCC originally issued a final rule on August 24, 1990, and amended that rule on April 9, 1992.

The OCC published in the Federal Register on June 4, 1993 a notice of proposed rulemaking (NPRM) to further amend its real estate appraisal regulation (see Banking Bulletin 93-32, dated June 9, 1993). On November 10, 1993 the OCC published a notice of the availability of supplemental information (Banking Bulletin 93-55, dated November 9, 1993).

Highlights Of The Amended Regulation

This final rule expands, modifies, and clarifies exemptions to the appraisal regulation and identifies additional transactions that are exempt from the appraisal requirements of Title XI.

With the exception of three categories of transactions, the final rule eliminates the evaluation requirement for real estate-related financial transactions that do not require appraisals. It also eliminates duplicative regulatory appraisal standards and allows a regulated institution to accept an appraisal prepared for another financial services institution, under certain conditions.

Changes to Exemptions

The final rule:

- Increases to \$250,000 the threshold below which national banks are not required to obtain appraisals prepared by licensed or certified appraisers for real estate loans.
- Expands, modifies, or clarifies exemptions for:
 - Loans where real estate collateral is taken as an abundance of caution;

- Loans not secured by real estate;
- Renewals and refinancing of existing real estate loans;
- Transactions involving real estate notes;
- U.S. government insured or guaranteed loans;
- Loans that qualify for sale to a U.S. government agency or U.S. government sponsored agency; and
- Residential loans supported by appraisals complying with the appraisal standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.
- Creates new exemptions for real estate transactions in which:
 - A national bank takes a lien on real estate to ensure access to, and control over, non-real estate collateral;
 - A national bank makes a business loan of \$1 million or less and repayment is not primarily dependent upon the sale of, or rental income from, real estate;
 - A national bank acts in a fiduciary capacity and is not required to obtain an appraisal by other law; and
 - The OCC determines that an appraisal by a licensed or certified appraiser is not necessary for a national bank's safety and soundness.

Changes to Requirements for Evaluations

- The final rule reduces from six to three, the categories of exempt transactions that require evaluations of real estate collateral. They are:
 - Loans below the threshold;
 - Business loans of \$1 million or less, where repayment is not primarily dependent upon the sale of, or rental income from, real estate; and
 - Renewals and refinancings of existing real estate loans.

Changes to Appraisal Standards

The final rule:

- Eliminates nine duplicative regulatory appraisal standards that parallel existing standards of the Uniform Standards of Professional Appraisal Practice (USPAP). The OCC elected not to include USPAP as part of its regulation thus further minimizing unnecessary burden and confusion.
- Restores use of the Departure Provision for federally related transactions.
- Retains the existing definition of market value and a modified version of the deductions and discount appraisal standard.

The agencies wish to reemphasize that each appraisal must contain the real estate's market value, as defined by this regulation. However, more than one value estimate, such as a prospective value, may be included in a Title XI appraisal to aid the institution's loan underwriting and loan disbursement processes. Any additional value estimate must be clearly described and reflect the projected date when the future event could occur.

Changes to Use of Appraisals for Others

The regulation continues to provide that a regulated institution, or its agent, shall engage the appraiser directly, and that the appraiser shall have no interest, direct or indirect, in the property or the transaction.

The regulation now permits regulated institutions to accept appraisals prepared for other financial services institutions, if the appraiser has no interest in the property or transaction and the regulated institution determines the appraisal conforms to this regulation and is otherwise acceptable.

Consumer Disclosure

The agencies have addressed certain consumer protection issues raised during the comment period by reminding banks of the protections provided by the Real Estate Settlement Procedures Act (RESPA) and Federal Reserve Board Regulation B in the preamble.

The OCC encourages institutions to inform the consumer whether they intend to use the services of a licensed or certified appraiser to prepare the estimate of value for a real estate-related financial transaction. This should be done early enough in the loan application process to allow the consumer to make an informed decision that the intended method of estimating the real estate's value meets his or her needs.

Summary Table

The OCC has attached to this banking issuance a more detailed summary of the regulation to facilitate national banks' understanding of this regulation. The table lists the regulatory text and a brief explanation of that text. Please consult the preamble to the regulation for a detailed discussion of the regulatory changes.

Comments

The OCC is interested in receiving your comments on the usefulness of the attached summary. Comments, which are optional, should be forwarded to: Office of the Chief National Bank Examiner, 400 7th Street, SW, Washington, DC 20219, Attention: Credit & Market Risk

For Further Information Contact: Credit & Market Risk (202) 649-6670.

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Related Links

- [Summary Table](#)
- [Final Rule](#)