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Appraisal Subcommittee

Federal Financial Institutions Examination Council

January 12, 2000

Carl Dutch
Director of Education
The Chicopee Group
3301-R-Coors Rd., NW #255
Albuquerque, NM 87120

Dear Mr. Dutch:

This responds to your December 13, 1999 letter in which you asked two questions relating to the Appraisal Subcommittee's ("ASC") National Registry of State Certified and Licensed Real Estate Appraisers ("National Registry").

First you asked: "If a licensed/certified appraiser was hired and performed an appraisal for a federally related transaction, but was temporarily not listed on the ASC's 'Federal Registry' due to license expiration or other issue, what, if any, would be the consequences for; a) the lender, and b) the appraiser?"

Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI") requires federally insured financial institutions to use certified or licensed appraisers to perform appraisals in connection with federally related transactions. Generally speaking, two things are needed before a person can be used to perform an appraisal in connection with a federally related transaction. First, a State must ensure that the person meets its minimum requirements for licensure or certification. In the case of certification, those requirements, at a minimum, must meet the Appraiser Qualifications Board's ("AQB") certification criteria, *i.e.*, having sufficient levels of education and experience and passing an AQB-approved examination. For licensure, those State requirements must be meaningful to assure competence. To be meaningful, most States have adopted the AQB's suggested licensing criteria. Second, the person must pay the ASC, through the State, a \$25 National Registry fee, and that person must be listed as an active appraiser in good standing on the National Registry.

State appraisal credentials alone (*i.e.*, without National Registry recognition) do not authorize appraisers to perform appraisals in connection with federally related transactions. National Registry recognition is required. Therefore, if an appraiser's certificate or license were to lapse for a period or if the State processing an appraiser's certificate or license renewal were to fail to forward the necessary National Registry information and fees to the ASC on a timely basis, that appraiser's certificate or license would be listed as expired on the National Registry. The appraiser therefore no longer would be eligible to perform appraisals in connection with federally related transactions. Accordingly, it is important that appraisers renew their credentials on a timely basis, and that States process the renewals and submit the data to the ASC promptly. If a person were to perform appraisals in connection with federally related transactions without National Registry recognition, that person could expose him or herself to civil or criminal liability under Federal or State law, depending on State law requirements, circumstances, and other factors. We do not regulate financial institutions and cannot speculate on consequences to such institutions. You may wish to forward that inquiry to one or more of the Federal financial institution regulatory agencies.

Next, you asked: “Since Title XI sec 1112(b) allows the FFIRA to establish a ‘threshold level at or below which a certified or licensed appraiser is not required . . .’, if a particular licensed or certified appraiser ONLY performs appraisals below this threshold, would he or she be required to participate in the federal registry? a) If yes, then why? b) Can appraisers not performing FRT work decline the registry mention?”

The answers to these questions depend on State law. Most States provide three Federally recognized credential levels. While the nomenclature may vary, those credentials are: “licensed”; “certified residential”; and “certified general.” Once a person is awarded one of these credentials and that person is listed on the National Registry, he or she is legally authorized to appraise for both federally related and non-federally related transactions, as specified by the credentialing State’s statutes and/or regulations. Any appraiser holding an appraisal credential that entitles him or her to appraise in connection with federally related transactions must be listed on the National Registry. This is true even if the appraiser chooses never to perform appraisal for Federally related transactions. It is the authority to perform such appraisals, not the actual performance, that triggers the requirement to be listed on the National Registry.

A few States, such as North Carolina, have special appraiser classifications that allow persons who never perform appraisals in connection with federally related transactions to obtain a credential and appraise for **non-federally related** transactions. These persons do not pay the \$25 annual National Registry fee and are not listed on the National Registry. In these cases, the ASC makes sure that the State awarding such credentials eliminates the potential for confusion in the marketplace regarding who can, and who cannot, perform appraisals in connection with federally related transactions. The ASC requires that the name of the appraiser classification be sufficiently different from the titles of the Federally recognized designations. Moreover, the ASC requires States to place conspicuously on paper licenses or pocket cards wording similar to “Not eligible to perform appraisals in connection with federally related transactions.”

We note that appraisers holding these limited credentials not only cannot perform appraisals in connection with federally insured financial institutions; they also cannot be used in residential real estate transactions destined for sale to FannieMae or FreddieMac or insurance by the Federal Housing Administration within the Department of Housing and Urban Development. These appraisers also could not perform appraisals in connection with other Federal programs, such as Department of Veterans Affairs mortgage insurance program.

Please contact us if you have any further questions.

Sincerely,

Ben Henson
Executive Director