

# Home Valuation Code of Conduct Frequently Asked Questions (FAQs)

Updated March 2010

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 (Code) was modified and became effective for single-family mortgage loans (except government-insured loans) originated on or after May 1, 2009, and delivered to Fannie Mae.

The following FAQs provide additional clarification on implementation of the Code. Fannie Mae’s and Freddie Mac’s FAQs may differ to some extent in style or structure, but present no substantive differences in interpretation or implementation of the Code, nor do they impose any different operational requirements.

*NOTE: This document was previously updated in March and July 2009. Questions that are new or substantively updated in this (March 2010) version are indicated by **NEW** or **UPDATED**.*

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## Scope of Coverage

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

Fannie Mae 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 does 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. Does the Code apply to a loan that is insured or guaranteed by a federal agency and ultimately sold to Fannie Mae (i.e., FHA or VA loan)?**

The Code does not apply to loans that are insured or guaranteed by a federal agency, such as FHA and VA loans.

**Q7. 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.

**Q8. 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.

**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 the Code apply to the Desktop Underwriter<sup>®</sup> Property Inspection Report (Form 2075)?**

No, Form 2075 is an inspection report. It is not an appraisal, and therefore the Code does not apply.

**Q12. Does the Code apply to appraisals performed for loss mitigation?**

The Code applies to loans originated and sold to either Fannie Mae or Freddie Mac. It does not apply to appraisals performed for loss mitigation purposes.

**Q13. How does Fannie Mae audit compliance with the Code?**

Compliance with the Code will be part of the lenders' operational review.

**Q14. Section IV.E. of the Code allows an exception to Section IV if the Seller meets the definition of a "small bank" and Fannie Mae determines the Seller would suffer a hardship due to the provisions of Section IV of the Code. What are the requirements for this provision?**

An institution falls under the provisions of Section IV.E. of the Code if it is a seller/servicer of Fannie Mae, a regulated financial institution with asset values as specified in 12 U.S.C. §2908, and meets the requirements, if any, of the institution's regulatory agency regarding the Interagency Appraisal and Evaluation Guidelines (SR Letter 94-55 and revisions). As with the entire Code, this provision is subject to Fannie Mae's representations and warranties. Sellers falling under Section IV.E. are still required to comply with the remainder of the Code, including Section III, which duplicates many of the requirements of Section IV.

**Q15. Is a Seller required to submit documentation to Fannie Mae to take a Section IV.E. exemption?**

Fannie Mae does not require a Seller to submit documentation to become exempt pursuant to Section IV.E of the Code. A Seller claiming this exemption, however, represents and warrants that it meets the criteria of Section IV.E.

**Q16. Does the Code apply to other valuation methods (i.e., automated valuation models [AVMs], broker price opinions [BPOs], tax assessments, etc.)?**

No, the Code applies only to appraisals.

**Q17. Is the definition of application date the actual date of the application or the date of receipt of the application by the lender?**

The application date is defined as the date the borrower(s) signed the application certifying that the information is correct.

**Q18. UPDATED This question clarifies Section II of the Code. Lenders may have had different interpretations prior to the issuance of this question. May lenders submit to Fannie Mae their pipeline loans that were originated in good faith compliance with their, possibly different, interpretation of Section II of the Code?**

Yes; however, Fannie Mae expects that processes to comply with the clarification of Section II as referenced above should have been implemented no later than September 1, 2009.

**Q19. Does the Code require or prohibit the use of foreclosure data by appraisers?**

The Code does not speak to foreclosure data. It is up to the appraiser to determine if the data is applicable and appropriate or not.

## **Selection of an Appraiser**

**Q20. Does the Code change any of Fannie Mae's requirements regarding the role of the appraiser?**

No. The *Selling Guide* requirements for the appraiser remain at their same high level. Fannie Mae requires the appraiser to provide complete and accurate reports; to report neighborhood and property conditions in factual and specific terms; to be impartial and specific in describing favorable or unfavorable factors; and to avoid the use of subjective, racial, or stereotypical terms, phrases, or comments in the appraisal report. The opinion of market value must represent the appraiser's professional conclusion, based on market data, logical analysis, and judgment.

Additionally, it is important to note that when an appraiser signs Fannie Mae's residential appraisal report form, the appraiser is also certifying the following:

"I have knowledge and experience in appraising this type of property in this market area."

And

"I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records, and other such data sources for the area in which the property is located."

**Q21. 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).

**Q22. 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.

**Q23. If a lender or appraisal management company maintains a legacy appraiser panel for which loan production staff may have recommended or influenced the selection of appraisers, is the lender required under Section III.B of the Code to reselect such panels prior to the May 1, 2009 effective date?**

No, the Code does not require the lender to reselect appraiser panels; however, any legacy appraisal panel must comply with the provisions of the Code.

**Q24. 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.

**Q25. 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).”

**Q26. 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.

**Q27. 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.”

**Q28. Are processors, closers, secondary marketing employees, underwriters, etc. permitted to order appraisals if they do not receive commission or incentives to close loans, but they ultimately report up to a senior-level employee who is responsible for loan production?**

The Code states that members of the lender's loan production staff who are compensated on a commission basis or who report to any officer of the lender not independent of the loan production staff and process are not permitted to order appraisals or influence the selection of appraisers. Ideally, a Seller should establish complete separation of appraisal activities from loan production activities. At an absolute minimum, the degree of separation should be no less than one level up in the reporting structure. To mitigate any potential conflict of interest due to reporting relationships, Sellers should establish, maintain, and enforce written policies and procedures that are designed to reinforce independence.

**Q29. NEW May a person on a lender's staff who is not part of the loan production staff and does not receive a bonus or commission based on loan closings provide an AMC a list or panel of appraisers to use for loans involving a specified mortgage broker, real estate agent or loan officer?**

No person may provide an AMC a list or panel of appraisers to be used for loans involving a specified mortgage broker, real estate agent, or loan officer. The Code specifically prohibits lenders from accepting appraisal reports completed by an appraiser selected, retained, or compensated in any manner by mortgage brokers and real estate agents. Mortgage brokers and real estate agents must not be involved in the selection of appraisers for an approved panel or specific assignments under any circumstances. Please refer to Section III.A of the Code for further information regarding who is authorized to select and retain appraisers.

**Q30. 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.

## **In-House Appraisers**

**Q31. May in-house appraisers prepare appraisal reports?**

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

**Q32. 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.

**Q33. 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.

**Q34. Are any institutions excluded from these restrictions on the use of in-house appraisers?**

Yes. Please refer to Qs 14 and 15.

## **Appraisal Management Companies (AMCs)**

**Q35. Is a lender required to use an AMC for ordering appraisals?**

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

**Q36. May an AMC affiliated with, or that owns or is owned in whole or in part by the lender or a lender-affiliate, order appraisals?**

Yes, an AMC 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 AMC meets the criteria of Section IV.B. of the Code.

**Q37. May a lender direct a mortgage broker to a specifically authorized AMC that will receive information from the broker about the loan application and begin the appraisal process?**

Yes, as long as the lender has previously arranged for its appraisal process to be managed by the specifically authorized AMC. This process is compliant with the Code because the broker is not responsible for selecting, retaining, or providing for payment of compensation to the appraiser.

**Q38. May a lender that uses a group of specifically authorized AMCs direct a broker to use a specific AMC from the group to submit information about the loan application and begin the appraisal process?**

Yes. As stated in the answer to Q37, this process is compliant with the Code because the broker is not responsible for selecting, retaining, or providing for payment of compensation to the appraiser.

**Q39. May a lender order an appraisal by directing a broker to select an AMC from among a group of specifically authorized AMCs, one of which would receive information from the broker about the loan application and begin the appraisal process?**

No. Such a process would give the broker an element of responsibility for selecting or retaining the appraiser, and therefore would not be compliant with the Code.

**Q40. May a lender direct a broker to use a web portal set up either by the lender, or by the lender's authorized agent, through which the broker inputs a request for an appraisal and then triggers the lender's system to order an appraisal?**

Yes.

## Mortgage Brokers

**Q41. 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.

**Q42. 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.

**Q43. May a mortgage broker order an appraisal directly from an AMC that was specifically authorized by the lender?**

The Code prohibits brokers from ordering appraisal services, but brokers may initiate the appraisal process on a lender's behalf in accordance with arrangements made by the lender. See Q37 for details.

**Q44. 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.

## Portability of the Appraisal

**Q45. 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.

**Q46. 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.



**Q47. 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.

**Q48. NEW Lender B originates a loan using an appraisal transferred from Lender A, who provided Lender B with written assurances that the appraisal was obtained in a manner consistent with the Code. Will Fannie Mae hold Lender B liable for remedies if it is discovered after the transfer that Lender A committed a Code violation?**

All Fannie Mae–approved Seller/Servicers must represent and warrant they have in place the structure, policies, and procedures required to comply with the Code and that appraisals for mortgages with application dates on or after May 1, 2009, were obtained in a manner consistent with the Code. In the situation described in the question:

- If Lender A is a Fannie Mae–approved Seller/Servicer, Fannie Mae will hold Lender A responsible for ensuring its processes are in compliance with the Code.
- Fannie Mae will hold Lender B responsible if it did not take appropriate precautions to detect violations of the Code committed by Lender A. For example, Lender B should check to make sure that a mortgage broker or real estate agent is not listed as the lender/client on the appraisal report.

If Lender A is not a Fannie Mae–approved Seller/Servicer, Fannie Mae will hold Lender B fully responsible for any Code violations.

**Q49. Section III.A of the Code allows a lender to accept an appraisal prepared by an appraiser for a different lender, provided the lender: (1) obtains written assurances that such other lender follows the Code in connection with the loan being originated; and (2) determines that such appraisal conforms to its requirements for appraisals and is otherwise acceptable. Will Fannie Mae provide a standard form to the lender so that the written assurance can be documented?**

Fannie Mae will not provide a standard form. The lender is responsible for documenting the written assurance from the other lender.

**Q50. Can an AMC or a third-party designee provide the written assurance (referenced in Q49) or does the assurance have to come from the prior lender?**

The assurance must come from the original lender.

## **Payment for the Appraisal**

**Q51. If the appraisal is ordered by the lender in a Code-compliant manner, are there any specific requirements about how the payment for the appraisal is transferred to the lender?**

Except for the requirement that the broker may not be responsible for payment of compensation to the appraiser, the Code does not restrict how a lender obtains fees from a broker. So, for

instance, a borrower may write a check to a broker, or provide their credit card information to a broker, for the broker to send to the lender or to an agent authorized by the lender.

**Q52. Are borrowers precluded from providing payment for an appraisal to an AMC?**

The Code does not prohibit a borrower from providing payment to an AMC; however, the borrower may not pay the appraiser directly for an appraisal.

**Q53. 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.

## **Appraisal Report Copies**

**Q54. 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.

**Q55. What is the time frame for providing the “copy” of the appraisal?**

The lender must 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.

**Q56. Can you clarify the requirements around Section II of the Code requiring the borrower’s receipt of the appraisal?**

The Code requires that a borrower be provided a copy of the appraisal no less than three days prior to the closing of the loan. The Code allows that the borrower may waive this three-day requirement. Situations where a borrower is unaware of his or her right to a copy of the appraisal prior to the three days and is then provided a waiver of that right at the closing table, would not be compliant with the intent of the Code. The time period of rescission in a refinancing situation does not constitute a valid three-day waiver period.

The Code does not specify what form the waiver must take or whether it be oral or written. In addition, the Code does not prohibit that a waiver, given in a timely manner, be recorded at some later point when the parties are available. Each lender must develop its own policies, procedures, and documentation. For example, a lender may obtain a waiver from a borrower through an email, phone call, or some other means, prior to the three-day period, and then have that waiver recorded in writing at the settlement table or at some other time.

The three-day period begins on the day of the receipt of the appraisal. For example, in a non-waiver situation, where a borrower received an appraisal on Monday, the closing could be held on Wednesday. Saturday is included for purposes of counting the three-day period. Sundays and legal holidays are not included for counting the three-day period.

**Q57. The Code requires the lender to provide the borrower a copy of any appraisal report concerning the borrower's subject property promptly upon completion. In this instance, what is meant by "completion"?**

The word "completion" is meant to reflect when the lender has reviewed and accepted the appraisal to include any changes or corrections required.

**Q58. How is "closing" of the loan defined? Is closing the date the documents are executed or the date the funds are disbursed?**

We define "closing" as the date the borrower executes the loan documents.

**Q59. How is the lender required to provide the borrower with a copy of the appraisal?**

The Code does not provide a specific method of delivery. The lender is responsible for ensuring that the borrower receives a copy of the appraisal.

**Q60. Section II of the Code allows the borrower to waive the three-day requirement for receiving a copy of the appraisal. What is an acceptable procedure if the borrower chooses to waive the three-day requirement?**

The lender is responsible for establishing a process and procedure for documenting the borrower's waiver of the three-day requirement.

**Q61. NEW Can a loan closing proceed if the lender in good faith and according to its policies and procedures sent a copy of the appraisal to the borrower in accordance with the three-day requirement, but the borrower did not receive the copy of the appraisal prior to the scheduled closing?**

In those rare instances in which the lender followed its policies and procedures but the borrower did not receive the appraisal three days prior to closing, the loan may close without delay if the borrower waives the three-day requirement and is provided a copy of the appraisal on the day of closing. While the Code does not specifically require written documentation of the borrower's waiver or receipt of the appraisal three days prior to closing, we advise lenders to have policies and procedures in place so they can document the borrower's receipt of the appraisal or the waiver should questions arise.

## **Appraisal Review**

**Q62. Who on the lender's staff, or on the staff of an authorized third party, may have communications with an appraiser to request a correction of objective factual errors in an appraisal report?**

Communications with an appraiser regarding the corrections of objective factual errors in an appraisal report may be made by anyone on the staff of the lender, or on the staff of an authorized third party.

**Q63. Who on the lender's staff, or on the staff of an authorized third party, may have communications with an appraiser relating to or having an impact on valuation, including ordering or managing an appraisal assignment?**

Anyone who is not part of loan production staff or who is not compensated on a commission basis upon successful completion of a loan or anyone who does not report, ultimately, to any officer of the lender not independent of the loan production staff or process, may have communications with an appraiser relating to or having an impact on valuation, including ordering or managing an appraisal assignment.

**Q64. Does the Code prohibit the appraiser from talking with the Realtor involved in the subject transaction? Can the Realtor provide comparable data and/or explain their pricing strategy to the appraiser?**

The Code does not prohibit the appraiser from talking with the Realtor; Realtors can often be a source of data in the market in which the subject property is located. Any data provided by a third party must still be researched and verified independently by the appraiser. In addition, the appraiser is required to be provided a copy of the sales contract for a purchase money transaction.

## Quality Control

**Q65. 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 applies to all loans that were originated by the lender or acquired from a third party. It is important to note that our current quality control requirements, as noted in the *Selling Guide*, Part D, Ensuring Quality Control, will satisfy the requirement of Section VI.

**Q66. 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)

**Q67. 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](http://eFannieMae.com).