



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D.C. 20551

DIVISION OF BANKING
SUPERVISION AND REGULATION

January 14, 2010

Mr. Bill Garber
Director of Government and External Relations
Appraisal Institute
122 C Street, NW, Suite 360
Washington, D.C. 20001

Dear Mr. Garber:

This responds to the October 26, 2009 letter to Chairman Bernanke from the Appraisal Institute, American Society of Appraisers, American Society of Farm Managers and Rural Appraisers, and National Association of Independent Fee Appraisers, seeking clarification of the Federal Reserve's policy on the use of broker price opinions (BPOs) in valuing land and other real property collateralizing commercial mortgage loans. In particular, you asked for confirmation of the Federal Reserve's staff position that a BPO did not meet the requirements of an evaluation under the Interagency Appraisal and Evaluation Guidelines (guidelines).

In response to your question as to the use of BPOs, it is the position of the Federal Reserve staff that a BPO does not satisfy the definition of an appraisal in the Board's appraisal regulation. Therefore, a regulated institution would not be able to utilize a BPO to originate a loan secured by commercial real estate when the loan requires an appraisal in accordance with the appraisal regulation.

As you are aware, the appraisal regulation does permit a regulated institution to obtain or perform an evaluation, in accordance with the guidelines, in lieu of an appraisal for certain qualifying transactions. Such transactions include:

- A transaction with a value equal to or less than the appraisal threshold of \$250,000;
- A business loan with a transaction value equal to or less than \$1 million, which is not dependent on the sale of, or rental income derived from, real estate as the primary source of repayment; or
- A transaction involving an existing extension of credit at the institution, provided that:
 - There has been no obvious and material change in the market conditions or physical aspects of the property that threatens the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies; or

- There is no advancement of new monies, other than funds necessary to cover reasonable closing costs.

For these qualifying transactions, a regulated institution is expected at a minimum to obtain an evaluation in accordance with the guidelines. As detailed in the guidelines, an evaluation must meet prudent standards such that the evaluation provides the institution with sufficient information on the value of the collateral to assess the soundness of the transaction. Specifically, an evaluation should:

- Be written;
- Include the preparer's name, address, and signature, and the effective date of the evaluation;
- Describe the real estate collateral, its condition, and its current and projected use;
- Describe the source(s) of information used in the analysis;
- Describe the analysis and supporting information; and
- Provide an estimate of the real estate's market value, with any limiting conditions.

With regard to the use of BPOs as an evaluation, Federal Reserve staff has taken the position that a BPO does not provide sufficient detail on a commercial property's condition, occupancy, and use to meet the guidelines' requirements for an evaluation. While a BPO by itself would not be considered an evaluation, an institution may utilize information from a BPO in an evaluation. In addition, a BPO may be an acceptable tool to determine a sales price in a residential mortgage modification as a loan modification does not constitute a "federally related transaction" and, therefore, does not require the use of an appraiser. Of course, a bank would be expected to consider relevant state laws and regulations on the use of BPOs for its residential mortgage loan modification program.

As you are aware, the Federal Reserve and the other federal financial institutions regulatory agencies have received comments on BPOs in connection with the proposal to revise the Interagency Appraisal and Evaluation Guidelines.¹ As the agencies move forward on finalizing the proposal, the comments in your letter on the use of BPOs will be considered.

I hope that this information responds to your inquiry.

Sincerely,



Patrick M. Parkinson
Director

¹ See 73 *Federal Register* 69647 (November 19, 2008), proposed Interagency Appraisal and Evaluation Guidelines.