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### *Hot Flash - Appraisal Update!*

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#### **Dodd-Frank Reform Act Summary**

*By John P. Cogger and Peter C. Catalanotti*

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173) is a federal statute that was signed into law on July 21, 2010.

Title XIV, Subtitle F (Sections 1471-1476), is entitled "Appraisal Activities," and amends the Truth in Lending Act in regards to property appraisal requirements.

The Act generally requires that real estate appraisers use their independent professional judgment in appraising real estate values without influence or pressure from persons with interests in the transactions.

#### Reasonable Fees to Appraisers:

The law requires that market rate fees be paid to appraisers. This requires lenders or their agents (brokers) to pay appraisers a rate that is "customary and reasonable for appraisal services performed in the market area of the property being appraised." This does not apply to appraiser employees of the lenders or of appraisal management companies hired by the lenders.

#### "Higher-Risk" Mortgages Require Appraisals:

Lenders providing higher-risk mortgages must obtain an appraisal before entering into such loans. The Act specifies appraisal requirements, including a physical property visit and a second appraisal in some circumstances.

#### Appraiser Independence:

Those with an interest in the underlying transaction of the appraisal may not bribe, coerce, extort, or otherwise inappropriately influence the appraiser. Appraisers and appraisal management companies hired by lenders may not have a financial interest in the transaction involved in the appraisal. Those with an interest in the transaction may not mischaracterize the appraised value of the property.

#### Appraiser Misconduct Reporting Requirement:

Various entities (such as a mortgage lender or broker) involved in a real estate transaction involving an appraisal must report to the appropriate state licensing agency any violations by an appraiser of the Uniform Standards of Professional Appraisal Practice.

#### AMC Requirements:

The Fed, the OCC, the FDIC, the NCUA, the Federal Housing Finance Agency, and the Bureau shall jointly establish minimum requirements for states to apply for the registration of appraisal management companies (AMCs). Mandated requirements include compliance with the Uniform



Standards of Professional Appraisal Practice. States may impose additional requirements in addition to the federal standards. States may not register any appraisal management company owned any person who has had an appraiser license or certificate refused, denied, cancelled, or revoked.

[Source:<http://appraisalnewscast.com/2010/07/21/appraisal-section-of-new-dodd-frank-bill/>]

#### HVCC is Replaced:

The Act will displace the Home Valuation Code of Conduct, which is the current standard for appraisal independence for loans purchased by Fannie Mae and Freddie Mac, pursuant to rules recently implemented by the Fed.

[Source:<http://financialreform.wolterskluwerlb.com/2010/10/interim-rule-implements-dodd-frank-act-real-estate-appraisal-requirements.html>]

#### Interim Rule:

The interim rule - which is scheduled to take effect in December and then be finalized next spring - prohibits outside interference in appraisers' valuations and requires lenders to report evidence of appraiser misconduct to regulatory authorities. While the rule includes important core principles that promote appraiser independence, it has been noted that it does not lessen the current system's tilt toward cut-rate appraisal fees. The extent to which mandatory reporting of appraiser misconduct to local agencies will have on appraisers will be seen as the Interim Rule is put into effect.

[Source:<http://www.appraisalinstitute.org/ano/current.aspxvolume=11&numbr=21/22#12307>]

In sum, as to real property appraisals, the Dodd-Frank Act seeks reasonable fees for appraisers, independent appraisals, and replaces the HVCC.

John P. Cogger is a senior counsel in the firm's San Diego office. Should you have specific questions, or if you need representation, please do not hesitate to contact Mr. Cogger at [jpc@mmker.com](mailto:jpc@mmker.com) or 619.515.0269.

Peter C. Catalanotti is an associate attorney in the firm's San Francisco office. Should you have specific questions, or if you need representation, please do not hesitate to contact Mr. Catalanotti at [pcc@mmker.com](mailto:pcc@mmker.com) or 415.217.6990.

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