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To: Clients and Friends

From: David F. Dulock

Subject: Real Estate Appraisal Regulations Amended by OCC, FRB and FDIC

In the October 8, 2019, issue of the *Federal Register* (84 FR 53579, [click here](#)) the Office of the Comptroller of the Currency, Treasury (OCC), the Board of Governors of the Federal Reserve System (FRB) and Federal Deposit Insurance Corporation (FDIC), herein collectively the “Federal Agencies,” adopted a final rule to amend the Federal Agencies’ regulations requiring appraisals of real estate for certain transactions.

The final rule increases the threshold level at or below which appraisals are not required for residential real estate transactions from \$250,000 to \$400,000.

The final rule defines a residential real estate transaction as a real estate-related financial transaction that is secured by a single 1-to-4 family residential property.

The final rule provides that for residential real estate transactions exempted from the appraisal requirement as a result of the revised threshold, regulated institutions must obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices.

The final rule makes a conforming change to add to the list of exempt transactions those transactions secured by residential property in rural areas that are exempted from the agencies’ appraisal requirement pursuant to section 103 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (12 U.S.C. 3356). The final rule requires evaluations for these exempt transactions.

The final rule also amends the Federal Agencies’ appraisal regulations to require regulated institutions to subject appraisals for federally related transactions to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

This final rule applies to financial institutions that are subject to the above Federal Agencies appraisal regulations (*i.e.*, regulated institutions).

The final rule is effective on October 9, 2019, except for the following amendments, which are effective on January 1, 2020:

- For transactions exempted from the appraisal requirement by the final rule’s addition of the rural residential appraisal exemption, regulated institutions must obtain an appropriate evaluation of the real property that is consistent with safe and sound banking practices.
- For federally related transactions, regulated institutions are required to subject appraisals to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

The texts of these amendments effective on January 1, 2020, are in instructions 4, 5, 9, 10, 14, and 15 on pages 53597 and 53598 of the *Federal Register*.

(5 pages)

The texts of the final rule's amendments to the OCC, FRB and FDIC appraisal regulations are identical except for references to the particular sections and paragraphs.

The final rule amends the following sections of the OCC appraisal regulations in part 34 of title 12 of the Code of Federal Regulations:

Section 34.42 is amended by revising paragraph (f); redesignating paragraphs (k) through (n) as (l) through (o), respectively; and adding a new paragraph (k). The revision and addition read as follows:

(f) Complex appraisal for a residential real estate transaction means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(k) Residential real estate transaction means a real estate-related financial transaction that is secured by a single 1-to-4 family residential property.

Section 34.43 is amended by revising paragraph (a)(1); removing the word "or" at the end of paragraph (a)(12); removing the period at the end of paragraph (a)(13) and adding "; or" in its place; adding paragraph (a)(14); revising paragraph (d)(3); and, effective January 1, 2020, revising paragraph (b). The revisions and addition read as follows:

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

(1) The transaction is a residential real estate transaction that has a transaction value of \$400,000 or less;

(14) The transaction is exempted from the appraisal requirement pursuant to the rural residential exemption under 12 U.S.C. 3356.

(b) *Evaluations required.* For a transaction that does not require the services of a State certified or licensed appraiser under paragraphs (a)(1), (5), (7), (13), or (14) of this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.

(d) (3) *Complex appraisals for residential real estate transactions of more than \$400,000.* All complex appraisals for residential real estate transactions rendered in connection with federally related transactions shall require a State certified appraiser if the transaction value is more than \$400,000. A regulated institution may presume that appraisals for residential real estate transactions are not complex, unless the institution has readily available information that a given appraisal will be complex. The regulated institution shall be responsible for making the final determination of whether the appraisal is complex. If during the course of the appraisal a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, then either:

(i) The regulated institution may ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and co-sign the appraisal; or

(ii) The institution may engage a certified appraiser to complete the appraisal.

Section 34.44 is amended, effective January 1, 2020, by republishing the introductory text; redesignating paragraphs (c), (d), and (e) as (d), (e), and (f), respectively; and adding a new paragraph (c). The addition reads as follows:

For federally related transactions, all appraisals shall, at a minimum:

(c) Be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice;

The final rule amends the following sections of the FRB appraisal regulations in part 225 of title 12 of the Code of Federal Regulations:

Section 225.62 is amended by revising paragraph (f); redesignating paragraphs (k) through (n) as (l) through (o), respectively; and adding a new paragraph (k). The revision and addition read as follows:

(f) Complex appraisal for a residential real estate transaction means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(k) Residential real estate transaction means a real estate-related financial transaction that is secured by a single 1-to-4 family residential property.

Section 225.63 is amended by revising paragraph (a)(1); removing the word “or” at the end of paragraph (a)(13); removing the period at the end of paragraph (a)(14) and adding “; or” in its place; adding paragraph (a)(15); revising paragraph (d)(3); and, effective January 1, 2020, revising paragraph (b). The revisions and addition read as follows:

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

(1) The transaction is a residential real estate transaction that has a transaction value of \$400,000 or less;

(15) The transaction is exempted from the appraisal requirement pursuant to the rural residential exemption under 12 U.S.C. 3356.

(b) *Evaluations required.* For a transaction that does not require the services of a State certified or licensed appraiser under paragraphs (a)(1), (5), (7), (14), or (15) of this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.

(d) (3) *Complex appraisals for residential real estate transactions of more than \$400,000.* All complex appraisals for residential real estate transactions rendered in connection with federally related transactions shall require a State certified appraiser if the transaction value is more than \$400,000. A regulated institution may presume that appraisals for residential real estate transactions are not complex, unless the institution has readily available information that a given appraisal will be complex. The regulated institution shall be responsible for making the final determination of whether the appraisal is complex. If during the course of the appraisal

a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, then either:

- (i) The regulated institution may ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and co-sign the appraisal; or
- (ii) The institution may engage a certified appraiser to complete the appraisal.

Section 225.64 is amended, effective January 1, 2020, by republishing the introductory text; redesignating paragraphs (c), (d), and (e) as (d), (e), and (f), respectively; and adding a new paragraph (c). The addition reads as follows:

For federally related transactions, all appraisals shall, at a minimum:

- (c) Be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice;

The final rule amends the following sections of the FDIC appraisal regulations in part 323 of title 12 of the Code of Federal Regulations:

Section 323.2 is amended by revising paragraph (f); redesignating paragraphs (k) through (n) as (l) through (o), respectively; and adding a new paragraph (k). The revision and addition read as follows:

- (f) Complex appraisal for a residential real estate transaction means one in which the property to be appraised, the form of ownership, or market conditions are atypical.
- (k) Residential real estate transaction means a real estate-related financial transaction that is secured by a single 1-to-4 family residential property.

Section 323.3 is amended by revising paragraph (a)(1); removing the word “or” at the end of paragraph (a)(12); removing the period at the end of paragraph (a)(13) and adding “; or” in its place; adding paragraph (a)(14); revising paragraph (d)(3); and, effective January 1, 2020, revising paragraph (b). The revisions and addition read as follows:

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

- (1) The transaction is a residential real estate transaction that has a transaction value of \$400,000 or less;
- (14) The transaction is exempted from the appraisal requirement pursuant to the rural residential exemption under 12 U.S.C. 3356.

(b) *Evaluations required.* For a transaction that does not require the services of a State certified or licensed appraiser under paragraphs (a)(1), (5), (7), (13), or (14) of this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.

(d) (3) *Complex appraisals for residential real estate transactions of more than \$400,000.* All complex

appraisals for residential real estate transactions rendered in connection with federally related transactions shall require a State certified appraiser if the transaction value is more than 400,000. A regulated institution may presume that appraisals for residential real estate transactions are not complex, unless the institution has readily available information that a given appraisal will be complex. The regulated institution shall be responsible for making the final determination of whether the appraisal is complex. If during the course of the appraisal a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, then either:

- (i) The regulated institution may ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and co-sign the appraisal; or
- (ii) The institution may engage a certified appraiser to complete the appraisal.

Section 323.4 is amended, effective January 1, 2020, by republishing the introductory text; redesignating paragraphs (c), (d), and (e) as (d), (e), and (f), respectively; and adding a new paragraph (c). The addition reads as follows:

For federally related transactions, all appraisals shall, at a minimum:

- (c) Be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice;

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