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To: Clients and Friends
From: David F. Dulock
Subject: Real Estate Appraisal Threshold Increased for Commercial Real Estate Transactions

For financial institutions regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation (collectively, the agencies), effective April 9, 2018, these agencies adopted a final rule amending their respective appraisal regulations requiring appraisals of real estate for certain transactions. The final rule adds a definition for “commercial real estate transaction” and increases the threshold at or below which appraisals are not required for commercial real estate transactions from \$250,000 to \$500,000. The final rule is published in the April 9, 2018, *Federal Register* (83 FR 15019, [click here](#)).

The final rule defines a commercial real estate transaction as “a real estate-related financial transaction that is not secured by a single 1-to-4 family residential property.” Title XI of the FIRREA (12 U.S.C. 3331 *et seq.*), pursuant to which the agencies appraisal regulations are promulgated, defines “a real estate-related financial transaction” as any transaction that involves: (i) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.” (12 U.S.C. 3350(5)) For commercial real estate transactions exempted from the appraisal requirement as a result of the final rule’s revised threshold, the final rule requires regulated institutions to obtain an appropriate evaluation of the real property collateral that is consistent with safe and sound banking practices.

Please note that the agencies appraisal regulations, including the final rule, apply only to financial institutions regulated by the agencies. Also note that the final rule does not apply to transactions secured by a *single* 1-to-4 family residential property, including construction loans secured by a *single* 1-to-4 family residential property. The preamble to the final rule states on page 15023, however, that the word “single” is included in the definition of commercial real estate transaction “to clarify that only transactions secured by *one* 1-to-4 family residential property are excluded from the definition of ‘commercial real estate transaction,’” and that “a loan that is secured by *multiple* 1-to-4 family residential properties (for example, a loan to construct multiple properties in a residential neighborhood) would meet the definition of commercial real estate transaction and thus be subject to the higher threshold.” (Emphasis added.)

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