

Cool Reception to Fannie Idea on Appraisals

American Banker | Wednesday, February 27, 2008

By Kate Berry and Marc Hochstein

Fannie Mae's new appraisal policies, part of a deal being hammered out with the New York Attorney General's Office, could face resistance from lenders, many of whom consider the use of in-house appraisers and appraisal management units a way of ensuring, not undermining, the quality of valuations.

Industry observers also raised questions about how the government-sponsored enterprise's ban on letting brokers choose appraisers would work in practice. Even advocates for appraisers, which have long complained about pressure from lenders and brokers to inflate valuations, expressed reservations about Fannie's plan to create a clearing house of appraisal information.

Fannie has been telling lenders that on Sept. 1 it plans to stop letting those that "have any wholly owned subsidiary or other subordinate entity that performs appraisals" do business with the GSE. Observers have interpreted that to mean lenders like Countrywide Financial Corp., whose LandSafe Inc. provides appraisals, would no longer be able to sell loans to Fannie unless they outsourced the appraisal work.

Jeff Schurman, the executive director of the Title/Appraisal Vendor Management Association, said the change is likely to encounter "a firestorm of opposition."

Though his trade group, whose members include lender subsidiaries, favors an "arm's length relationship" with appraisers, many captive appraisal management companies outsource the task of performing appraisals instead of doing it themselves, he said.

"What Fannie is saying in this context is you can't use independent appraisers that are engaged by a captive or affiliate, but you can use that same independent appraiser if they are engaged by some other appraisal management company," he said.

Neither Fannie nor Countrywide would discuss the new policies for this story.

Jeff Naimon, a partner at Buckley Kolar LLP, a law firm that represents mortgage lenders, said that setting up a vendor management subsidiary that handles appraisals can be part of "a process that shields actual appraisers from pressure."

In terms of "appraisal quality," the benefits of forbidding the use of such

subsidiaries "are not obvious, as economists would say," Mr. Naimon said.

Also on Sept. 1, Fannie plans to stop buying loans in which a broker ordered the appraisal. Mr. Naimon said that change, though understandable, raises questions about how brokers can "play their role" of trying to negotiate the best rate and terms for the consumer.

"Without an appraisal, how can the broker shop the loan?" he asked. "How do they figure out what loan product" to request from a lender "without knowing the loan-to-value?"

Terry Couto, a former chief financial officer at several mortgage companies, including GE Capital Mortgage Services Inc., said most major lenders have formed "an appraisal unit to do part of their work," though the industry could move fully to using independent appraisers fairly easily.

"A lot of the appraisal work is already going outside," said Mr. Couto, now a partner with Newbold Advisors LLC, a Bethesda, Md., consulting company. "They would just have to shift it all outside."

Details of the agreement between Fannie and the Attorney General's Office have not been finalized and could change.

The talks stemmed from an investigation New York Attorney General Andrew Cuomo began in November into appraisal practices at First American Corp. of Santa Ana, Calif., and its eAppraiseIT LLC, which he accused of inflating the value of home loans under pressure from Washington Mutual Inc. All three companies have denied the accusations.

As part of the investigation, Mr. Cuomo subpoenaed Fannie and Freddie Mac and asked them to supply details about Wamu's loans and their due diligence practices related to appraisals.

Not surprisingly, third-party vendor management companies that stand to benefit from any mandated outsourcing said they welcomed the new policies.

Peter Sadowski, an executive vice president and general counsel at Fidelity National Financial Inc. of Jacksonville, Fla., said separating the appraisal function would promote transparency.

"Standards that are reasonable and can be enforced are always a good thing," he said.

Bob Murphy, the chairman and chief executive of ValuAmerica Inc., a Pittsburgh

vendor management company, said Fannie is trying to implement changes that the industry tried unsuccessfully to adopt 20 years ago, before the savings and loan crisis.

"The separation between appraisers and lenders has not occurred," he said. "The industry found itself in a situation where brokers and loan originators influenced appraisers to get higher property values."

Most vendor management companies do not conduct appraisals themselves, but there may still be an inherent conflict, Mr. Murphy said. "The nuance is that if you're a wholly owned vendor management company, then you owe allegiance to your owners."

Bill Garber, the director of government affairs at the Appraisal Institute, a trade group of appraisers, raised concerns about Fannie's expanded role in creating a clearing house of appraiser information.

"This would appear to place Fannie Mae in an appraiser regulatory role, and appraisers are already regulated," he said. "The clearing house concept seems to add a layer of bureaucracy and could subvert the current structure."

Mr. Garber said the Fannie deal would not solve the issue of "appraisal coercion," which he blamed largely on mortgage brokers for pressuring appraisers to inflate property values.

But he also chastised lenders and vendor managers for not hiring qualified appraisers and choosing "those that hit the numbers to get a deal done" instead. "Whenever you can insert protection for appraisal independence, we think that's a good thing," Mr. Garber said, and he would like to see more details of the proposed changes.

Mr. Schurman said even though brokers have received plenty of criticism for pressuring appraisers, there still is no clear definition of what constitutes illegal pressure. His trade group defines inappropriate client pressure as "bribery, coercion, and extortion."

Harry Terris contributed to this story.