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February 2, 2023

Julia R. Gordon
Assistant Secretary for Housing – FHA Commissioner
Federal Housing Administration
400 7th St. SW
Washington, DC 20024

RE: Feedback for Draft Borrower Request for Review of Appraisal Results Draft ML

Assistant Secretary Gordon,

The undersigned appraisal organizations appreciate the opportunity to offer feedback on the above-captioned Mortgagee Letter. We believe a well-developed Reconsideration of Value (“RoV”) process can be beneficial to borrowers, underwriters, and appraisers in ensuring fair and accurate appraisals in connection with FHA-guaranteed loans.

Tidewater Initiative

Our organizations suggest the FHA turn to the pro-consumer protocol that is used effectively in supporting veterans under the Department of Veterans Affairs (VA) “Tidewater Initiative” when finalizing this policy. This would align the agencies as closely as possible and result in generally consistent protocols and procedures used by participating mortgage lenders.

The Tidewater Initiative works by allowing stakeholders to provide relevant information to the appraiser when the appraisal is likely to come in below the contract price. This protocol helps address consumer concerns prior to the completion of the appraisal, and affords appraisers a consistent, structured process for considering additional information. This type of interaction was once common best practice in the appraisal profession but has waned because of more formalized or structured policies established through the lens of appraiser independence. We urge the FHA to consider the Tidewater protocol as a template for RoV or Reconsideration of Appraisal Results guidelines and regulations.

As we have highlighted Tidewater in the marketplace, some stakeholders have raised the challenges associated with refinance transactions, as the VA protocols currently apply to purchase mortgage transactions. Providing appraisers with “borrower estimates of value” in refinances was once a common practice, but that has been stricken over concerns about appraisal independence. It may be that a Tidewater protocol is not possible in the refinance space, but we believe the idea of mitigating issues prior to delivery of the appraisal report warrants further discussions by the agencies, with the FHA playing a leading role.

A clear RoV process is also critical to provide sufficient guidance, so underwriters recognize when a reconsideration request from a borrower requires further engaging the appraiser, versus those circumstances where mere dissatisfaction with the appraised value is the primary driver of the request. Creating these delineations must also recognize that a Reconsideration of Value has lower thresholds than those established for the ordering of a Second Appraisal. Instances listed in the draft Mortgagee Letter, such as fraud or bias, would trigger the ordering of a Second Appraisal without any previous reconsideration having been performed.

Second Appraisal

We encourage FHA to develop a list like that used to determine when a Second Appraisal is required to provide guidance to underwriters about the circumstances where a Reconsideration of Value request should be forwarded to the appraiser. For example, where information about the subject property conflicts with previously known characteristics, or where the appraiser has made significant adjustments to comparable sales used in completing the assignment, forwarding a reconsideration could be reasonable. In both examples, they fall short of the circumstances where a Second Appraisal would be required but can affect the opinion of value in a way where changes could lead the appraiser to reach a new opinion of value.

Our concern is absent meaningful guidance, underwriters will err on the side of always forwarding reconsideration requests to the appraiser. The alternative, where the underwriter documents the request and their reasons for rejecting the request, could expose underwriters to borrower complaints to regulatory entities or possible litigation. The easiest, and less risky, option is to forward requests and shift borrower complaint risk to the appraiser, who must then take time and effort to substantively respond to each request, in most cases for no additional compensation. By providing clearer examples where a request should be forwarded, underwriters will have better indicators of when a request is appropriate and can reject requests that do not meet one of the listed examples by pointing to the FHA Mortgagee Letter.

When a reconsideration request is forwarded to the appraiser, we also ask for clear language to underwriters that **all** concerns regarding the appraisal be included in the first communication of the request for reconsideration. This should include the allowance to submit up to three recent comparable home sales not included in the original appraisal, which is VA's RoV policy. This streamlines the process by encompassing all issues in one request, versus circumstances where underwriters come back numerous times with various concerns. By taking an all-inclusive approach to requests borrowers and underwriters can have their concerns addressed, while appraisers know that they will not be subject to multiple requests and can provide a more substantive response in a single request.

Lastly, where the appraiser considers the request but does not change their opinion of value, we do not feel it is necessary or appropriate to reflect this conclusion as part of the previously completed appraisal report. Rather, we believe a memorandum to the underwriter that addresses the request and the appraiser's rationale why they have not changed their opinion of value should be sufficient as an explanation to underwriters and borrowers. This memo can refer to the concerns raised with various aspects of the appraisal report and provide explanations why the appraiser did not believe the information provided by the underwriter was sufficient enough to merit changing the opinion of value.

Spot Checks

When FHA's new RoV policy is instituted, we strongly encourage the performance of quality control spot checks on a large number of requests to ensure the RoV process has been implemented correctly, and is not inadvertently leading to appraisal independence issues where appraisers are concerned if they do not match the sales price, they will be hit with a fair housing complaint.

Appraisal Review

The Mortgagee Letter predominantly refers to "underwriters" throughout the ROV process. The proposed revision represents an opportunity for FHA to emphasize mortgagee appraisal review functions. We believe qualified appraisal reviews are largely missing from the public discourse on valuation bias and fair housing issues. While Mortgagees are not required to maintain credentialed appraisal reviewers, this function is an important risk mitigant and worthy of recognition in the revised ROV policy. At a minimum, we suggest reference to "Appraisal Review" alongside and equal to "Underwriter" and "Mortgagee" in the final revised policy.

Again, we appreciate the opportunity to comment on this Draft Mortgagee Letter. If you have any questions or wish to discuss our views further, please contact Bill Garber, AI, 202-298-5586, bgarber@appraisalinstitute.org, John Russell, ASA, 703-733-2103, jrussell@appraisers.org, Stephen Frerichs, ASFMR, 703-212-9416, sfrerichs8@comcast.net, or Steve Sousa, 617-830-4530, steve@mbrea.org.

Sincerely,
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