

April 10, 2018

Agencies Raise Appraisal Threshold for CRE Transactions

Effective April 9, 2018,¹ the Federal Reserve, the OCC and the FDIC each enacted a final rule² increasing the threshold level at or below which appraisals are not required for commercial real estate transactions from \$250,000 to \$500,000, i.e., formal appraisals are not required for any commercial real estate transaction with a transaction value less than \$500,000. A “commercial real estate transaction” is defined as a real estate-related financial transaction that is not secured by a single 1-to-4 family residential property.

Title XI of FIRREA requires each federal financial institutions regulatory agency to publish appraisal regulations for federally related transactions within their respective jurisdictions. (A “federally related transaction” is a real estate-related financial transaction³ that is

¹ This is the date the final rule was published in the Federal Register. The thirty-day delayed effective date required under the Administrative Procedures Act was waived because the new rule was deemed to have relieved a restriction.

² The Federal Reserve rule is codified at 12 CFR §§225.62(e), 225.63(a)(12)(13), (b), (d)(2). The OCC rule is codified at 12 CFR §§34.42(e), 34.43(a)(12)(13), (b), (d)(2). The FDIC rule is codified at 12 CFR §§323.2(e), 323.3(a)(12)(13), (b), (d)(2)

³ “Real estate related financial transactions” include sales, leases, purchases, investments in or exchanges of real property or interests in property, the refinancing of real property or interests in real

regulated by a federal financial institutions regulatory agency and requires the services of an appraiser.)

Under the former commercial real estate appraisal thresholds, enacted in 1994, all real estate-related financial transactions with a transaction value of \$250,000 or less did not require Title XI appraisals. Under the 1994 rules, “commercial real estate transactions” included construction loans secured by a single 1-to-4 unit residential property, whether or not the loan included permanent financing.

In contrast, under the new 2018 rule, any loan secured by a single 1-to-4 family residential property (including construction loans) is excluded from the appraisal threshold requirement applicable to commercial real estate loans. Thus, loans secured by a single 1-to-4 family residential property remain subject to the requirement that appraisals be conducted if the transaction value is \$250,000 or greater.

The 2018 rule retains the mandate that, where Title XI appraisals are required, they be conducted by a State certified or licensed appraiser, and the requirement that for transactions that do not require

property, and the use of real property or interests therein as security for a loan or investment.

April 4, 2018

the services of a State certified or licensed appraiser, “the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.”⁴

The rule changes were primarily prompted by the realization that increases in commercial property values over time have required regulated institutions to obtain Title XI appraisals for a greater proportion of their commercial real estate loans than in 1994, contributing to an increased burden for those institutions. The increase in the commercial real estate appraisal threshold is believed to relieve the burden on regulated institutions (particularly in rural areas with a shortage of State certified or licensed appraisers) without adversely impacting safety and soundness considerations.

The information contained in this CBA Regulatory Compliance Bulletin is not intended to constitute, and should not be received as, legal advice. Please consult with your counsel for more detailed information applicable to your institution.

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⁴ 12 CFR §34.43(b) (OCC); 12 CFR §225.63(d) (FRB); 12 CFR §323.3(b) (FDIC).