

# The Home Valuation Code of Conduct

# HVCC

- IS an agreement between/among the NY AG Office (Andrew Cuomo) and OFHEO, Fannie Mae and Freddie Mac
- IS NOT specified or referenced in any state or federal law
- Whether or not it will survive once OFHEO becomes the FHFA is not yet known

# Key Provisions

- There are 11 key provisions that may end up affecting all appraisers as well as their customers
- This document is separate and distinctly different from the IVPI document although the IVPI is referenced herein

# Appraiser Independence

- Do NOT celebrate yet! Much of the proposal will assuredly impact the way in which you do business and your existing client relationships
- Lender may not exert influence. There are prohibitions and exhortations, including these prohibitions:
  - Withholding or threatening to withhold payment
  - Withholding or threatening to withhold future business
  - Promising future business
  - Conditioning the order on a preliminary value estimate (an appraisal)

# Appraiser Independence continued

- Requesting a preliminary value estimate or comparable sales (again an appraisal)
- Providing the appraiser n anticipated/desired value target OR anticipated loan amount (sales contracts excepted)
- Providing the appraiser with stock or other benefits
- Removing an appraiser from an approved panel without prior written notification that includes a USPAP violation or other evidence of sub-standard performance
- Obtaining a second or subsequent appraisal absent a basis upon which to assume the first was flawed

# Appraiser Independence continued

- Any other act that impairs the appraiser's **independence, objectivity or impartiality**

# Copy of Appraisal

- Free to the borrower
- Must be provided ASAP or at a minimum within 3 days prior to close of the loan

# Ordering the Appraisal

- Now it gets sticky:
- The lender or its authorized correspondent must order the appraisal and arrange for payment for the fee for the appraisal
- This WILL cause most large lenders to use Appraisal Management Companies (AMC)

## Separation from production

- Specific separation is required to insulate the appraiser from the loan production staff

# Selection of Appraisers

- **MUST** be done by someone appropriately trained in real estate and appraisal
- **INCLUDES** the AMC staff if one is used

# Other Prohibitions

- Lender may not use a bundled service provider for appraisals (i.e. no title, etc. services)
- Appraisals may not be done by staff appraisers
- An exception is provided for staff reviewers
- Lender may not own more than 20% of the appraisal company- this may well affect wholly owned appraisal management companies as well as the many joint ventures already in existence

# Exhortations

- A requirement that the lender establish and maintain a hotline for customers to report problems and for appraisers to report attempted influence
- Any such complaint must be reported to both the IVPI and to the state licensing/certification board
- A requirement that the lender QC 10% or a statistically bona fide percentage of all appraisals
- Lender must certify that the appraisal was done in conformance with the Code

# Types of Valuations

- Interestingly, the code does not contain any requirement to obtain any particular type of valuation
- And, there is no requirement as to any minimum scope of work

# Recent Happenings

- DO expect that something of this will survive even though the regulator is being phased out to be replaced by another agency
- AG Cuomo himself is the subject of a new series of articles in New York's Village Voice alleging that he was part of the problem when he was Secretary of HUD

# What the IVPI is NOT!

- It is not an appraisal management company.
- It is not a government regulatory agency.
- It is not a licensing regulatory body.
- It is not yet been formed and the Board has not yet been named.



# Purpose and Reason for IVPI

- The integrity of the valuation processes involve federal and state laws and regulations as well as market practices and standards. This complex area requires a high level of expertise and coordination to ensure truly sound, accurate, independent and reliable appraisals.



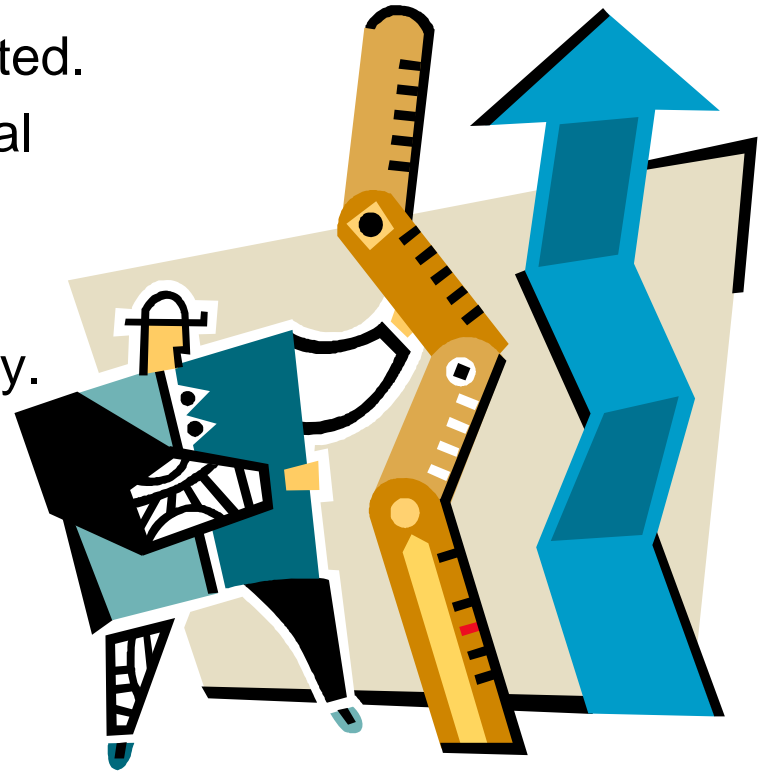
# Mission of IVPI

- The Independent Valuation Protection Institute (the “Institute”), will be established to monitor and study this area.
- The Institute may, from time to time, propose amendments to the Code which the parties to this Agreement will review and consider.



# Hotline!

- Consumer:
  - They feel the process has been tainted.
  - They have been harmed by appraisal fraud.
- Appraiser:
  - Independence threatened in any way.
  - Undue pressure.
- Mediation:
  - Confidentiality shall be maintained.
  - Complaints may be forwarded to appropriate legal authority.



# Membership to the Board of Directors

- Experts in the following areas:
  - Real Estate Finance
  - Loan Origination
  - Law Enforcement
  - Compliance review
  - Real Estate Appraisal and Valuation
- No financial connections to the following:
  - Fannie or Freddie
  - Loan originators engaging the above
  - Any securitizer contributing to the IVPI
- Approval:
  - AG and OFHEO will both approve Board



# Additional Requirements for IVPI

- Report activities publicly to the AG and OFHEO on a bi-annual basis.
- It may be affiliated with an existing organization or association.
- Fannie and Freddie agree to fund the group for 12 million or 5 years at a minimum.
- A full time professional staff will be hired.



# Unknowns

- Relationship with ASC ,Foundation and Federal Regulators
- Enforcement capacity
  - Can they tell OFHEO that Fannie and Freddie can no longer accept loans from a particular lender because of appraisal issues?
- What about non agency loans that they receive a Hotline call about?
- Criteria for referring to a State Appraisal Board , AG or other agency.
- Are they to be OFHEO appraisal watchdogs?

