

### Here's what you need to know about HR 4173

The President recently signed into law the **Frank-Dodd Wall Street Reform and Consumer Protection Act** (HR 4173). Title XIV of the legislation, the Mortgage Reform and Anti-Predatory Lending Act, has significant appraisal reforms addressing appraisal independence, oversight of appraisal management companies, and changes to FIRREA. Below are the highlights of the bill as it pertains to appraisals.

#### Appraisal Independence

- Provides new appraiser independence requirements under the Truth in Lending Act ([TILA](#)) within 90 days of enactment
- Broadens the violations of appraiser independence to include to state: "Any appraisal of a property offered as security for repayment of the consumer credit transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, firm or other entity conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser."
- An appraiser may consider additional, appropriate property information including additional comparable sales to support an appraisal, provide further detail, or correct errors.
- New conflict of interest standard in TILA that prohibits an appraiser or AMC from having a direct or indirect interest, financial or other wise, in the property or transaction involving the appraisal.
- Home Valuation Code of Conduct ([HVCC](#)) sunsets within 90 days of enactment.
- TILA amendment that any "mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company (AMC), employee of an AMC, or "any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer" who has "a reasonable basis to believe" that an appraiser has failed to comply with the Uniform Standards of Professional Appraisal Practice ([USPAP](#)), is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct must report the matter to the applicable state appraisal board.
- Appraisers are to be compensated at a rate that is reasonable and customary for appraisal services in the market area of the property being appraised.

#### Changes to FIRREA, ASC and use of BPOs and AVMs

- Appraisal Qualifications Board ([AQB](#)) Qualification Criteria for licensed and trainee appraisers becomes mandatory for the states (currently is voluntary).
- The Federal Housing Finance Agency ([FHFA](#)) and the new Bureau of Consumer Financial Protection become members of ASC. The Office of Thrift Supervision is no longer a member of ASC.
- Broker price opinions (BPO) may not be used as the primary basis to determine the value of a property for purchase money transactions.
- Appraisal Subcommittee ([ASC](#)) shall monitor state appraisal boards to determine 1) whether states complete investigations, appropriately discipline, and reports complaints to the registry and 2) whether the state has effective appraiser independence laws.
- ASC may impose sanctions on states that fail to have effective appraiser regulatory programs.
- Automated valuation models (AVMs) are required to have quality control standards that 1) achieve a high level of confidence in estimates produced by AVMs, 2) protect against the manipulation of data, 3) seek to avoid conflicts of interest and 4) require random sample testing and reviews.

#### ASC Oversight of AMCs

- Minimum federal requirements established for appraisal management companies (AMC).
- ASC shall maintain a national registry for AMCs and impose an annual registry fee.
- ASC may remove AMCs (and appraisers) from the registry on interim basis pending state action.
- AMC must register with and be subject to state appraisal board in each state the company operates
- AMCs that are subsidiaries of financial institutions are not required to register with the states
- May use only licensed or certified appraisers for federally related transactions
- Appraisals must comply with USPAP
- Appraisals must be conducted independently
- AMC may not be registered with a state or be on the registry if directly or indirectly owned by a person who had an appraisal license revoked, refused, denied, cancelled, surrendered in lieu of revocation, and must be of good moral character.

#### Subprime Mortgages

- A subprime mortgage requires a written appraisal of the property to be mortgaged.
- The applicant is entitled to one free copy of the appraisal.
- The applicant must be notified that the appraisal is prepared for the sole use of the creditor.
- Defines subprime mortgage.