

# ECOA – VALUATIONS RULE/ AIR APPRAISAL DELIVERY

### **C**ONTENTS

Overview	2
ECOA – Valuations Rule	2
Delivery of Valuations	
Required Disclosures	
·	
Guidance on AIR Disclosure and Timing	3



## ECOA – VALUATIONS RULE/ AIR APPRAISAL DELIVERY



#### **O**VERVIEW

Franklin American Mortgage requires all appraisals to be AIR compliant. Correspondent lenders are reminded they must ensure their processes for ordering appraisals meet all applicable compliance requirements.

To validate compliance, FAMC may, from time to time, as part of our standard sampling, post purchase quality assurance reviews, require correspondent lenders to provide their internal policies, and procedures regarding appraisal ordering and management.

#### **ECOA – VALUATIONS RULE**

The Consumer Financial Protection Bureau (CFPB) issued a final rule amending the Equal Credit Opportunity Act (ECOA), specifically related to borrower's right to receive copies of appraisals and/or written valuations. The "Valuation Rule" applies to all applications taken on or after January 18, 2014, and to all first liens on dwellings regardless of the applicant waiving their right to receive an appraisal.

#### **DELIVERY OF VALUATIONS**

Copies of all appraisals and/or written valuations used in connection with the estimation of the value of the property must be provided to the applicant promptly upon completion or three business days prior to closing, whichever is earlier, including attachments and exhibits. No fees may be charged with the making of copies or for the delivery; only a reasonable fee in preparing the appraisals and valuations may be charged. In the instance where the loan is not closing, a copy of the appraisal and written valuations must still be provided to the applicant promptly upon completion.

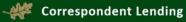
#### **Required Disclosures**

All loans delivered to FAMC for purchase must adhere to Appraiser Independence Requirements (AIR) disclosure guidelines. The following is required in order to satisfy those requirements:

- Loan Estimate (LE) including the Appraisal statement in the Other Considerations table.
  - We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.
  - This statement is required to be disclosed on the LE on all loans covered by the Equal Credit Opportunity Act (ECOA).
- To satisfy the evidence requirement of Regulation B, documentation should be maintained in
  the closed loan file to show that all appraisals or valuations used in connection with the loan
  application were delivered to the borrower at least three days prior to the loan closing, or that
  the borrower waived the three-day timing requirement. If the borrower waives the review
  period, it must be evidenced they did so a minimum of three days before the loan closed. Use of
  the <u>Appraisal Valuation Acknowledgement</u> or the <u>Borrower Appraisal Disclosure</u> (if applicable) is
  encouraged.



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#### **GUIDANCE ON AIR DISCLOSURE AND TIMING**

- Obtaining written waivers as a matter of course is not an acceptable practice and is contrary to
  the spirit of the Appraiser Independence Requirements, which is to allow the borrower ample
  time to review the appraisal report.
- An upfront Borrower Appraisal Disclosure that includes "blanket" waiver verbiage and does not
  allow the borrower the opportunity to select whether or not to waive their right is not an
  acceptable practice. The Borrower Appraisal Disclosure should be provided at the time of
  application or with the initial disclosures. The Borrower Appraisal Disclosure informs the
  borrower of the steps they must take if they choose to exercise their three (3) business day
  review period.
- Borrower(s) may not be allowed to acknowledge their receipt of the appraisal by signing such an
  acknowledgment at the time of application. It would not be possible to have received a copy of
  the appraisal at that point in the process, as the appraisal has not yet been ordered.
- Appraiser independence requires the borrower(s) receive a copy of their appraisal at least three
   (3) business days prior to closing, without having to make a written or verbal request, unless
   they have previously elected to waive their right to the appraisal. Borrowers must not be
   required to request, either verbally or in writing, a copy of the appraisal.
- If the borrower(s) elects to waive their right to receive a copy of the appraisal, this waiver may be signed at time of application. It may not be signed at the time of closing, since the code requires the copy of the appraisal to be received by the borrower(s) at least three (3) business days prior to closing. So, to allow the waiver to be signed at closing would be after a violation of the code had already occurred. Since the code requires that a copy of the appraisal be delivered to the borrower(s) promptly upon completion, the waiver would need to be signed sometime before the appraisal was completed.