

**HOME VALUE PROTECTION PROGRAM
AND
COOPERATION AGREEMENT**

WHEREAS, the New York Attorney General's Office (the "Attorney General's Office" or the "Office") has been conducting an investigation into conflicts of interest, fraud and other misconduct in the mortgage industry. As part of its investigation, the Attorney General's Office has studied the business models and conduct of entities, including but not limited to Federal National Mortgage Association ("Fannie Mae") and Federal Home Loan Mortgage Corporation ("Freddie Mac"), that purchase mortgage loans, and then, after pooling the loans, sell them as securities to the public; and,

WHEREAS, pursuant to the Attorney General's Office's investigation, the Office believes reforms are necessary to protect the valuation mechanisms within the housing industry in both the primary and secondary markets to protect consumers and to that end is engaged in an industry-wide investigation involving originators, securitizers and credit rating agencies; and,

WHEREAS, the Attorney General's Office believes that the current crisis in the mortgage industry follows a period of a high volume of home mortgages, home equity refinancings and securitizations of new structured mortgage financing products in which serious questions of conflicts of interest, negligence and errors throughout the housing market have arisen. The Attorney General's Office further believes that questions about valuation, both in the primary market and in the secondary market, are central to these concerns; and,

WHEREAS, the Attorney General's Office believes that, in the residential home primary market, home appraisals serve a vital role in determining the security of the

mortgage loans and the basis for evaluation of mortgage pools in the secondary market.

The appraisal also provides important information for consumers to consider in determining their best financial interest; and,

WHEREAS, the Attorney General's Office believes that the accuracy and independence of the appraisal process must be ensured and protected. Historically, there have been times when turmoil in the real estate market has been caused when the valuation mechanisms, and the appraisal process specifically, have been corrupted by pressure from lenders and brokers. Federal regulations require "independence" of the appraisers and the appraisal process. State governments have regulatory roles in ensuring the integrity of the appraisal process; and,

WHEREAS, the Attorney General's investigations have evidenced bias in appraisal practices, and therefore new policies safeguarding appraisal independence and *bona fide* valuations must be established; and,

WHEREAS, the Attorney General's Office believes that Fannie Mae is a highly significant institution in the secondary mortgage market that can play an important role in stabilizing the mortgage markets by, in part, helping to restoring consumer and investor confidence in home and mortgage pool valuations; and,

WHEREAS, the Office of Federal Housing Enterprise Oversight (hereinafter "OFHEO"), an independent agency in the Department of Housing & Urban Development oversees Fannie Mae and Freddie Mac, two government sponsored enterprises ("the Enterprises") and has established a regulatory regime to guide Enterprise efforts to resist and report mortgage fraud and suspected mortgage fraud; and,

WHEREAS, OFHEO has worked with the Enterprises to enhance their internal programs to detect and prevent mortgage and appraisal fraud and external programs to educate seller-servicers and the public on resisting mortgage fraud and to communicate with state appraisal licensing bodies on appraisal fraud or appraiser misconduct; and,

WHEREAS, OFHEO has worked with state and federal law enforcement and has reported events of mortgage fraud and suspected mortgage fraud, including appraisal fraud, for over two years to the Department of the Treasury's Financial Crimes Enforcement Network for referral to law enforcement; and,

WHEREAS, the parties agree to seek comment and concurrence regarding this Agreement and the Code of Conduct, and the timetable for the implementation thereof to assure no disruption in the marketplace, from the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration and the Federal Housing Administration, as the parties move forward to implement the Agreement and the Code of Conduct; and,

WHEREAS, the Attorney General's Office and OFHEO share concerns for a reliable valuation and appraisal process that underlies the mortgage market and believe it is in the public interest to act in a coordinated fashion; and,

WHEREAS, the Attorney General's Office and OFHEO believe that this forward-looking agreement will in no way prejudice any of the Attorney General's ongoing investigations in the mortgage industry or OFHEO's regulatory mandates but will provide appropriate and necessary reforms and stability to the market.

NOW THEREFORE, the Attorney General's Office, OFHEO and Fannie Mae enter into this agreement and agree as follows:

I. NEW HOME VALUATION PROTECTION CODE

1. To ensure appraisal independence and valuation protection, Fannie Mae has agreed to adopt a Home Valuation Protection Code (the "Code," which is attached hereto as Exhibit A), which was crafted by the Attorney General's Office and OFHEO, in consultation with the Enterprises and other market entities. The Code establishes requirements governing appraisal selection, solicitation, compensation, conflicts of interest and corporate independence, among other things. The Code may be modified from time to time to address changes in federal or state banking laws and regulations. Fannie Mae will immediately announce the adoption of the requirements contained in the Code, make appropriate changes to its Guide and, beginning January 1, 2009, will require that lenders represent and warrant that appraisals conducted in connection with single-family mortgage loans, other than government-insured loans, originated on or after January 1, 2009 that are delivered to Fannie Mae conform to the Code. After January 1, 2009, Fannie Mae will not purchase single-family mortgage loans, other than government-insured loans, from mortgage originators that do not agree to adopt the Code with respect to such loans that are delivered to Fannie Mae. Fannie Mae may exclude from the provisions of paragraph VI, subsections 1-4, of the Code, institutions that both meet the definition of a "small bank" set forth in the 12 U.S.C. § 2908, and which Fannie Mae determines would suffer hardship due to those provisions. Institutions excluded for hardship reasons must otherwise comply with the other provisions of the Code and must meet all appropriate standards of appraiser independence. During a period before

January 1, 2009, Fannie Mae shall provide the opportunity for comments from market participants on its implementation and deployment of the Code; commentators should provide copies of their comments to OFHEO. The parties to this Agreement understand the significance of the reforms provided for herein and therefore will in good faith review the comments received during this period and will consider any amendments to the Code necessary to avoid any unforeseen consequences. The parties to this Agreement believe that the adoption of this Code will enhance the integrity of and confidence in the housing finance system country-wide.

II. FORMATION OF THE INDEPENDENT VALUATION PROTECTION INSTITUTE

2. The parties hereto acknowledge that 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.
3. To that end, the parties agree that an independent entity, 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.
4. The Institute will establish a complaint hotline for consumers nationwide to contact if they believe the appraisal process has been tainted or if they have been harmed by appraisal fraud.
5. Appraisers themselves will be able to contact the Institute if they believe their independence has been threatened in any way, including by undue pressure. Appraiser complaints will be handled in confidence to protect the appraisers from

possible retaliation. The Institute, in its judgment, will mediate complaints or forward complaints to federal or state regulators. The Institute, in its judgment, may also forward complaints to state or federal law enforcement agencies for possible investigation or prosecution.

6. The Institute will be headed by a Board of Directors. Membership on the Board shall consist of experts in the fields of real estate finance, loan origination, law enforcement, compliance review and real estate appraisal and valuation. Members of the Board shall have no financial connection whatsoever with Fannie Mae, Freddie Mac or any loan originators with whom Fannie Mae or Freddie Mac engage. This prohibition will apply to any subsequent securitizer contributing to the Institute. The Institute shall hire a full time professional staff. The Attorney General's Office and OFHEO must both approve the membership of the Board.

7. The Institute shall report publicly on the results of its activities to the Attorney General's Office and OFHEO on a bi-annual basis.

8. The Institute may be affiliated with an existing academic, professional association and/or industry organization.

9. Fannie Mae agrees to fund the Institute, along with Freddie Mac, for a period of not less than five years at an annual cost to each as follows: year one - \$1 million; year two - \$2 million; year three - \$3 million; year four - \$3 million; and year five - \$3 million. To the extent other entities agree to participate in the Home Value Protection Program, the respective contributions of Fannie Mae and Freddie Mac may be reasonably reduced. The Institute may, upon a showing of good cause to the Attorney

General's Office and OFHEO, request that additional funds be allocated in years one and two from funds reserved for years three through five.

**III. COOPERATION AGREEMENT AND
TERMINATION OF THE ATTORNEY GENERAL'S OFFICE'S INVESTIGATION**

10. Fannie Mae agrees to cooperate with the Attorney General's Office and OFHEO to effect and accomplish the terms of this agreement. Fannie Mae also agrees to continue to cooperate in the Attorney General's Office's ongoing investigation into the mortgage industry.

11. The Attorney General's Office agrees to terminate its current investigation of Fannie Mae.

12. The parties agree that the requirements in this Agreement, except for the provisions relating to the Institute, terminate 28 months from the execution of the Agreement.

13. Nothing contained herein shall be deemed to constitute an admission by Fannie Mae of any wrongdoing in connection with any matter, which Fannie Mae expressly disclaims and denies. Nor shall this Agreement or any negotiations, transactions, or proceedings connected in any way with this Agreement be offered or received in evidence in any proceeding to prove any liability, any wrongdoing, or an admission on the part of any party hereto, by any individual or entity not a party hereto; provided, however, nothing herein shall prevent this Agreement, from being used, offered, or received in evidence in any proceeding to enforce any or all of the terms of this Agreement.

14. If any provision of this Agreement or the attached Code is found to be violative of federal law or regulation, the violative provision will be deemed null and

void. If any provision is deemed null and void, the Attorney General may, in his discretion, terminate this Agreement.

IN WITNESS THEREOF, the undersigned subscribe their names:

Dated: March 3, 2008

**ATTORNEY GENERAL OF
THE STATE OF NEW YORK**

**OFFICE OF FEDERAL
HOUSING ENTERPRISE
OVERSIGHT**

Andrew M. Cuomo

By: _____
**James B. Lockhart III
Director**

**FEDERAL NATIONAL
MORTGAGE ASSOCIATION**

By: _____
**Daniel H. Mudd
President and CEO**

Home Valuation
Code of Conduct

- I. No employee, director, officer, or agent of the lender, or any other third party acting as joint venture partner, independent contractor, appraisal management company, or partner on behalf of the lender, shall influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery, or in any other manner including but not limited to:
- 1) withholding or threatening to withhold timely payment for an appraisal report;
 - 2) withholding or threatening to withhold future business for an appraiser, or demoting or terminating or threatening to demote or terminate an appraiser¹;
 - 3) expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
 - 4) conditioning the ordering of an appraisal report or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate requested from an appraiser;
 - 5) requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal report;
 - 6) providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;
 - 7) providing to an appraiser, appraisal management company, or any entity or person related to the appraiser or appraisal management company, stock or other financial or non-financial benefits;
 - 8) allowing the removal of an appraiser from a list of qualified appraisers used by any entity, without prior written notice to such appraiser, which notice shall include written evidence of the appraiser's illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice

¹ An "Appraiser" must be licensed or certified by the state in which the property to be appraised is located.

(USPAP) or state licensing standards, substandard performance, or otherwise improper or unprofessional behavior;

- 9) ordering, obtaining, using, or paying for a second or subsequent appraisal or automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process; or
- 10) any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

Nothing in this section shall be construed as prohibiting the lender (or any third party acting on behalf of the lender) from requesting that an appraiser (i) provide additional information or explanation about the basis for a valuation, or (ii) correct objective factual errors in an appraisal report.

- II. The lender shall ensure that the borrower is provided, free of charge, a copy of any appraisal report concerning the borrower's subject property immediately upon completion, and in any event no less than three days prior to the closing of the loan. The borrower may waive this three-day requirement. The lender may require the borrower to reimburse the lender for the cost of the appraisal.
- III. The lender or any third-party specifically authorized by the lender (including, but not limited to, appraisal management companies and correspondent lenders) shall be responsible for selecting, retaining, and providing for payment of all compensation to the appraiser. The lender will not accept any appraisal report completed by an appraiser selected, retained, or compensated in any manner by any other third-party (including mortgage brokers and real estate agents).
- IV. All members of the lender's loan production staff, as well as any person (i) who is compensated on a commission basis upon the successful completion of a loan or (ii) who reports, ultimately, to any officer of the lender other than either the Chief Compliance Officer, General Counsel, or any officer who is not independent of the loan production staff and process, shall be forbidden from: (1) selecting, retaining, recommending, or influencing the selection of any appraiser for a particular appraisal assignment or for inclusion on a list or panel of appraisers approved to perform appraisals for the lender; (2) any communications with an appraiser, including ordering or managing an appraisal assignment; and (3) working together in the same organizational unit, or being directly supervised by the same manager, as any person who is involved in the selection, retention, recommendation of, or communication with any appraiser. If absolute lines of independence cannot be achieved as a result of the originator's small size and limited staff, the lender must be able to clearly demonstrate that it has prudent

safeguards to isolate its collateral evaluation process from influence or interference from its loan production process.

- V. Any employee of the lender (or if the lender retains an appraisal management company, any employee of that company) tasked with selecting appraisers for an approved panel or substantive appraisal review must be (1) appropriately trained and qualified in the area of real estate and appraisals, and (2) in the case of an employee of the lender, wholly independent of the loan production staff and process.
- VI. In underwriting a loan, the lender shall not utilize any appraisal report prepared by an appraiser employed by:
- (1) the lender;
 - (2) an affiliate of the lender;
 - (3) an entity that is owned, in whole or in part, by the lender;
 - (4) an entity that owns, in whole or in part, the lender
 - (5) a real estate “settlement services” provider, as that term is defined in the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 et seq.;
 - (6) an entity that is owned, in whole or in part, by a “settlement services” provider.

The lender also shall not use any appraisal report obtained by or through an appraisal management company that is owned by the lender or an affiliate of the lender, provided that the foregoing prohibitions do not apply where the lender has an ownership interest in the appraisal management company of 20% or less and where (i) the lender has no involvement in the day-to-day business operations of the appraisal management company, (ii) the appraisal management company is operated independently, and (iii) the lender plays no role in the selection of individual appraisers or any panel of approved appraisers used by the appraisal management company.

Notwithstanding these prohibitions, the lender may use in-house staff appraisers to (i) order appraisals, (ii) conduct appraisal reviews or other quality control, whether pre-funding or post-funding, (iii) develop, deploy, or use internal automated valuation models, or (iv) prepare appraisals in connection with transactions other than mortgage origination transactions (e.g. loan workouts).

- VII. The lender will establish a telephone hotline and an email address to receive any complaints from appraisers, individuals, or any other entities concerning the improper influencing or attempted improper influencing of appraisers or the

appraisal process, which hotline and email address shall be attended only by a member of the office of the General Counsel, Chief Compliance Officer or other independent officer. In addition: (1) each appraiser now or hereafter on any list of approved appraisers, or, upon retention by the lender, will be notified, in a separate document, of the hotline and email address and their purpose; and (2) each borrower, as part of a cover letter accompanying the provided appraisal, will be notified of the hotline and email address and their purpose. Within 72 hours of receiving any complaint, the lender will begin a preliminary investigation of the complaint and upon completing the inquiry (or, after a period not to exceed 60 days, whichever shall come first) shall notify the Independent Valuation Protection Institute and any relevant regulatory bodies of any indication of improper conduct. The name and any identifying information of the person or entity that has filed such a complaint shall be kept in strictest confidence by the office of the General Counsel, Chief Compliance Officer or other independent officer, except as required by law. The lender shall not retaliate, in any manner or method, against the person or entity which makes such a complaint.

- VIII. The lender agrees that it shall quality control test, by use of retroactive or additional appraisal reports or other appropriate method, of a randomly-selected 10 percent (or other bona fide statistically significant percentage) of the appraisals or valuations which are used by the lender, including the results of automated valuation models, broker's price opinions or "desktop" evaluations. The lender shall report the results of such quality control testing to the Independent Valuation Protection Institute and any relevant regulatory bodies.
- IX. Any lender who has a reasonable basis to believe an appraiser is violating applicable laws, or is otherwise engaging in unethical conduct, shall promptly refer the matter to the Independent Valuation Protection Institute and to the applicable State appraiser certifying and licensing agency.
- X. The lender shall certify, warrant and represent that the appraisal report was obtained in a manner consistent with this Code of Conduct.
- XI. Nothing in this Code shall be construed to establish new requirements or obligations that (1) require a lender to obtain a property valuation, or to use any particular method for property valuation (such as an appraisal or automated valuation model) in connection with any mortgage loan or mortgage financing transaction, or (2) affect the acceptable scope of work for an appraiser in connection with a particular assignment.