



## Providing a Notice of Right to Receive Appraisal

Answer by Andy Zavoina, BOL Guru  
[Guru BIOS](#)

**Question:** Our new applications do not have the Notice of Right To Receive Appraisal Copy on the form. Do we have to use a separate form now?

**Answer by Andy Zavoina:** Changes to Reg. B require that disclosures be provided that the consumer may keep. If you provide this required appraisal notice on an application, you would then have to provide them with a copy of that application. For this reason, the appraisal notice required under [202.14\(a\)\(2\)\(i\)](#) should be separate, or you provide a copy of the app.

The "written " and "retained" requirement is difficult to find as it isn't part of the appraisal notice, but is under [§202.4\(d\)](#)

Form of disclosures. **A creditor that provides in writing any disclosures or information required by this regulation must provide the disclosures in a clear and conspicuous manner and, except for the disclosures required by [§§202.5](#) and [202.13](#), in a form the applicant may retain.**

First published on BankersOnline.com 06/7/04

## Necessity of new appraisal

by Mary Beth Guard

**Question:** I have an appraisal question. I have a customer who would like to refinance a commercial real estate loan from another financial institution but does not want to pay for a new appraisal.

My understanding is that if the loan is assigned to my bank from the previous bank, then we could use the old appraisal. If we create a new lien then I would need a new appraisal.

Is this correct? The loan is over \$1 million and is dependent on rental income. Also, I have another situation in which the appraiser might not have the full appraisal ready for me at closing, but the value has been determined. May I close the loan prior to getting the full appraisal and not be out of compliance?

**Answer:** Your understanding is correct. The appraisal needs to be made for the specific lending institution. The goal is to provide a basis for valuation on which you can rely. For that reason, not only do you have to procure the appraisal, but you also need it before the loan is closed. The whole point is for you to have it to rely upon.

Your question does not indicate how long ago the original appraisal was obtained. While there is one small exception reiterated in guidance issued in October, 2003 that would allow an institution to use, under some circumstances, an appraisal prepared for another institution (See <http://www.occ.treas.gov/ftp/advisory/2003-9a.pdf>), I would also direct your attention to these excerpts from the original 1994 Interagency Guidelines on appraisals:

## **Valid Appraisals and Evaluations**

The agencies allow an institution to use an existing appraisal or evaluation to support a subsequent transaction, if the institution documents that the existing estimate of value remains valid. Therefore, a prudent appraisal and evaluation program should include criteria to determine whether an existing appraisal or evaluation remains valid to support a subsequent transaction. Criteria for determining whether an existing appraisal or evaluation remains valid will vary depending upon the condition of the property and the marketplace, and the nature of any subsequent transaction. Factors that could cause changes to originally reported values include: the passage of time; the volatility of the local market; the availability of financing; the inventory of competing properties; improvements to, or lack of maintenance of, the subject property or competing surrounding properties; changes in zoning; or environmental contamination. The institution must document the information sources and analyses used to conclude that an existing appraisal or evaluation remains valid for subsequent transactions.

## **Renewals, Refinancings, and Other Subsequent Transactions**

While the agencies' appraisal regulations generally allow appropriate evaluations of real estate collateral in lieu of an appraisal for loan renewals and refinancings, in certain situations an appraisal is required. If new funds are advanced over reasonable closing costs, an institution would be expected to obtain a new appraisal for the renewal of an existing transaction when there is a material change in market conditions or the physical aspects of the property that threatens the institution's real estate collateral protection.

The decision to reappraise or reevaluate the real estate collateral should be guided by the exemption for renewals, refinancings, and other subsequent transactions.

“The agencies’ appraisal regulations address appraiser independence and require that an institution, or its agent, directly engage the appraiser. The only exception to this requirement is that an institution may use an appraisal prepared for another financial services institution, provided that the institution determines that the appraisal conforms to the agencies’ appraisal regulations and is otherwise acceptable.”

First published on BankersOnline.com 05/24/04

## **Separate Notice of Appraisal**

by Andy Zavoina, BOL Guru

[Guru BIOS](#)

**Question:** Is it true that effective April 15, 2004, we should provide a separate notice of right to receive a copy of the appraisal? Currently, this notice is on the back of the Good Faith Estimate. Should we be giving separate notices since not every loan will have a GFE?

**Answer:** This is true. The change is under 202.4(d), which now requires disclosures, with some

exceptions, to be retainable by the consumer.

Many lenders had the notice on their application. Since the consumer doesn't retain the application, this doesn't meet the requirement. If your disclosure is on a form that the consumer may not receive or retain, a separate notice is required.

*§202.4(d) A creditor that provides in writing any disclosures or information required by this regulation must **provide the disclosures in a clear and conspicuous manner** and, except for the disclosures required by §§202.5 and 202.13, **in a form the applicant may retain.***

First published on BankersOnline.com 5/3/04

## Documenting Receipt of Copy of Appraisal

Answered by: David Dickinson

[Guru BIOS](#)

**Question:** Our practice is to give the customer their copy of the Real Estate Appraisal at the time of closing. Is it a regulatory requirement that we have the customer acknowledge receipt of this appraisal in order to document delivery?

**Answer:** No, this is not a requirement. If you do this for some, you should do this for all. My advice: Don't have the customer sign anything saying they got a copy of the appraisal. Simply give it when applicable. Don't add burden to the regulation.

First published on BankersOnline.com 2/23/04

## Appraisal Threshold Trigger

Answers by Linda Westfall and Mary Beth Guard, BOL Gurus

**Question:** For the threshold of certified appraisals on loans up to \$250,000, is the threshold applicable to each loan or is that for an aggregate amount? For example, if we would use the same collateral on two separate loans, does the \$250,000 apply to the aggregate amount of the loans or each separate loan?

**Answer by Linda Westfall:**

[BIO AND CONTACT INFO](#)

The regulation includes an exemption for "a transaction where the transaction value is less than \$250,000." If your bank has more than one loan secured by the property, the loans would not have to be aggregated. Any loan less than \$250,000 would be exempt.

**Answer by Mary Beth Guard:**

[BIO AND CONTACT INFO](#)

If it is obvious, however, that you are breaking one loan into two separate transactions in order to bring the individual loan amount under the mandatory appraisal threshold, don't expect to avoid regulatory criticism.

First published on BankersOnline.com 1/6/03

## Appraisal Copies & Reg B

Answer by: John Burnett, BOL Guru

[BIO AND CONTACT INFO](#)

**Question:** I have two questions regarding Reg B's requirement in section 202.5a to provide appraisal copies. 1) Does this requirement pertain to commercial loans where you take a dwelling as additional collateral in an abundance of caution? For example, we will often make a commercial line of credit secured primarily by a UCC-1 filing against business assets, but secondarily by a lien on the owner's residence. 2) What if you do not do an appraisal. On many of

our small equity loans we will use the assessed value or consideration paid to value the property - not doing an appraisal at all. Would we need to provide the notice in this case?

**Answer:** Second question first. If you use a tax assessment and do no analysis of same, it's not an appraisal, and you have no duty to provide a copy or to give the notice. If, however, you start with the tax assessment value and do internal analysis to arrive at your evaluation of the value, you've done an appraisal, and you have to comply with 202.5(a).

Appraisals (if done) of a dwelling used as collateral for a business loan are subject to the rule. I see no exception for collateral taken "out of an abundance of caution." The reason that many lenders don't provide a notice in "abundance of caution" situations is undoubtedly that they don't get or do an appraisal for the purpose of the loan.

First published on BankersOnline.com 12/16/2002

## Reg B Appraisal Notice Requirements

by Andy Zavoina, BOL Guru

[BIO AND CONTACT INFO](#)

**Question:** This questions is in reference to Reg B, more specifically about the appraisal notice or ALWAYS providing the customer with a copy of the appraisal. This is the situation: A corporation is borrowing money for business purposes, the two officers of the corp will guarantee the loan and are also putting up each of their primary residence as collateral. Is the notice of a right to the appraisal required to be given to the guarantors? Our mortgage dept. says no, it is a business loan and no "disclosure" is required.

**Answer:** While they are correct, it is not because it is a commercial loan. Remember parts of Reg. B apply to commercial entities.

Guarantors are defined separately under Reg. B and are subject to signatory requirements but not other parts. The section in "B" requiring appraisal disclosures is specific to "applicants". A guarantor is not an applicant. If they are not applicants, they need not be given an appraisal.

First published on BankersOnline.com 09/2/02

## Reg B Requirements: Appraisal Reports

Answer by Andy Zavoina, BOL Guru

[BIO AND CONTACT INFO](#)

**Question:** [Regulation B](#) requires a copy of the appraisal report be provided to every loan applicant when the proposed loan is to be secured by a one to four family unit residential structure and an appraisal of the security is made during the loan process. If the appraisal is an internal appraisal where the tax card value of the property is used to determine value, does the bank have the obligation to provide the customer a copy of the internal bank appraisal along with the tax card that was used to determine value?

**Answer:** The Commentary contains your answer.

12 CFR §202.5a Rules on providing appraisal reports.

2. Other reports. The term "appraisal report" does not cover all documents relating to the value of the applicant's property. Examples of reports not covered are--

i. internal documents, if a third-party appraisal report was used to establish the value of the property

ii. governmental-agency statements of appraised value

iii. valuations lists that are publicly available (such as published sales prices or mortgage amounts, tax assessments, and retail price ranges) and valuations such as manufacturers' invoices for mobile homes

First published on BankersOnline.com 9/2/02

## Appraisal Right Notice On A Commercial Loan

by: John Burnett, BOL Guru

[BIO AND CONTACT INFO](#)

**Question:** [Regulation B-](#) Loan issued to an individual for the purpose of refinancing commercial property. Are we required to provide the "Right to Receive Copy Of Appraisal Notice"?

**Answer:** If a loan request includes collateral that is a 1-4 family dwelling, Regulation B's requirements concerning delivery of an appraisal copy apply, regardless of the loan purpose or the borrower.

If your procedure is to routinely provide the appraisal copy for all applicable applications, you need not provide the notice. The regulation does not require you to inform the applicant he has a right to get something you're already going to give him.

First published on BankersOnline.com 6/3/02

## Using An Outdated Appraisal

by Mary Beth Guard, BOL Guru

[BIO AND CONTACT INFO](#)

**QUESTION:** My question pertains to an outdated appraisal prepared for another financial institution. I have an appraisal for residential property that is over 4 years old and was prepared for another bank. The customer adamantly opposes paying to update the appraisal. This customer is financially strong enough to find another lender/bank to commit to the request without updating the appraisal. I have a few thoughts on how to circumvent updating the appraisal. However, I would like to see what other lenders/banks do in the same situation. This is not the first time I've encountered this situation and I'm sure it won't be the last time.

**ANSWER:** I hesitate to even suggest this, but rather than circumventing the appraisal requirement, you might consider absorbing the cost of updating the appraisal. Having an updated appraisal is not only necessary from a compliance standpoint (assuming the dollar amount test is met for the transaction and no exception applies), but is important from a safety and soundness perspective to protect the bank.

Consider the cost of the update in relation to what you expect to earn on the loan.

Steer clear of any actions that might make it appear you are giving more favorable treatment to a particular lending customer on a prohibited basis.

First published on BankersOnline.com 3/4/02