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REAL ESTATE APPRAISALS THRESHOLD (COMMERCIAL REAL ESTATE)

I. INTRODUCTION

The federal banking agencies have adopted a final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The final rule increases the threshold level at or below which appraisals are not required for "commercial real estate transactions" from \$250,000 to \$500,000. For commercial real estate transactions exempted from the appraisal requirement as a result of the revised threshold, regulated institutions must obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices.

The final rule became effective on April 9, 2018.

II. COMMERCIAL REAL ESTATE – THRESHOLD INCREASE

The final rule increases the commercial real estate appraisal threshold from \$250,000 to \$500,000.

A. Definition of Commercial Real Estate Transactions

The commercial real estate appraisal threshold increase applies only to transactions defined as "commercial real estate transactions." The final rule defines a commercial real estate transaction as a real estate-related financial transaction that is not secured by a single 1-to-4 family residential property. This definition eliminates the distinction between construction loans secured by a single 1-to-4 family residential property that only finance construction and those that provide both construction and permanent financing. Under the definition in the final rule, neither of these types of loans will be commercial real estate transactions; thus, they will both remain subject to the \$250,000 threshold.

The agencies have included the term "single" in the definition to clarify that only transactions secured by one 1-to-4 family residential property are excluded from the definition of "commercial real estate transaction," whether financing the construction or for other purposes.

Thus, a loan to construct multiple 1-to-4 family residential properties would meet the definition of commercial real estate transaction and thus be subject to the higher threshold.

B. Use of Evaluations

The Title XI appraisal regulations require regulated institutions to obtain evaluations for three categories of real estate-related financial transactions that the agencies have determined do not require a Title XI appraisal. Accordingly, the final rule requires that regulated institutions entering into commercial real estate transactions at or below the \$500,000 commercial real estate appraisal threshold obtain evaluations that are consistent with safe and sound banking practices unless the institution chooses to obtain an appraisal for such transactions.

C. State Certified Appraiser Required

The final rule provides that “[a]ll federally related transactions that are commercial real estate transactions having a transaction value of more than \$500,000, shall require an appraisal prepared by a State certified appraiser.”

The foregoing Compliance Update is for informational purposes only and does not constitute legal advice. As a reminder, the NBA general counsel is the attorney for the Nebraska Bankers Association, not its member banks. The general counsel is available to assist members with finding resources to help answer their questions. However, for specific legal advice about specific situations, members must consult and retain their own attorney.