

**The Hagar Institute has the following classes complete or under development designed for delivery in 2012/2013**



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# New Interagency Appraisal and Evaluation Guidelines 2011/2012

## New Exemptions, Requirements, Audits, Compliance and FINES. (Appraisal Series, #2 out of 3)

With the December 2, 2010 issuance of the final supervisory guidance, every policy and guideline written prior to 2008 has been superseded.

This Webinar will explain the agencies' minimum regulatory standards for appraisals. The guidelines incorporate the agencies' recent supervisory issuances on appraisal practices, address advancements in information technology, and clarify standards for the appropriate use of analytical methods and technological tools in developing evaluations. Financial institutions **should** perform a complete top to bottom review of their appraisal and evaluation programs to **ensure** they are **consistent** with the new guidelines.

- ★ Appraisals vs. Evaluations. Do your policies correctly outline when each can be used?
- ★ What guidelines must be followed when the property does not meet Fannie Mae's requirements?
- ★ Valuation policies for modifications and workouts. Are your internal policies and procedures up to date?
- ★ Bad appraisals mean Institutions must file a complaints and a SAR

This Webinar will cover:

- ★ Exemptions (Fannie Mae and DeMinimus)
- ★ Use of Broker Price Opinions (BPO) and Automated Valuation Modeling (AVM)
- ★ Selection of the appraiser or third-party vendor (AMC)
- ★ The absolute minimum each appraisal must contain.
- ★ Review requirements (when, what type, how thorough)
- ★ Monitoring collateral values; What the Examiners are looking for.
- ★ What to expect when Fannie Mae/Freddie Mac forces a "buy-back"

To quote the Fed:

"Deficiencies in an institution's appraisal program [...] reflect negatively on management."

The FDIC along with the FBI have launched hundreds of investigations into management's handling of appraisal departments. Are your policies and procedures really up to "spec?"

**2 Hour**

### Marketing Questions:

1. Is this Webinar different than the Webinar on the Dodd/Frank Act?
  - a. Yes. This is the second of three Webinars concerning Appraisals. The first explained the Dodd/Frank Act which created new laws. In this Webinar we will explain and help the

institution understand the new administrative rules, regulations and guidelines that must incorporate into policies and procedures. These are the guidelines that will be used to audit institutions.

2. Isn't this just a rehash of existing Guidelines?
  - a. No. All of the agencies have been intensely examining and auditing failed, and about to fail, institutions. Deficiencies have been identified and new guidelines written to correct the problems. These rules are the first round of upgrades that each institution must incorporate into their existing policies and procedures.
  
3. As a cost saving policy, we've been using "evaluations" instead of appraisals. Can we continue this policy?
  - a. In general, yes. **However**, the combination of the Dodd/Frank Act along with these new Guidelines creates new guidelines explaining where "evaluations" are clearly improper for use in a credit decision. The use of AVMs or "appraiser assisted AVMs" are further restricted under these new policies. If your institution uses either AVMs or BPOs, this Webinar is the starting place for rewriting your policies and procedures.

## **Preparing for Loan Repurchase Appraisal Related Compliance and Legal Issues**

More and more loan files and appraisals are being reviewed by lenders and investors. Failures worth **billions** of dollars are being uncovered. Loans are being crammed down on to institutions.... big and small. Once these repurchase or “buy-back” demands hit the institution, often the burden of analyzing the validity of the repurchase demand falls on **appraisal, compliance and, legal departments**.

Institutions do not have proper policies and procedures in place to handle complex repurchase issues. Many lenders are paying a high price for bogus repurchases. Even worse, if a repurchase demand isn't immediately agreed to, a record number of institutions and originators are suing lenders, for billions.

**As an expert witness, I've observed the failures of many institutions to properly handle the repurchase or legal actions. Failures include:**

- Poor quality review of the original appraisal;
- Selecting the wrong type of review;
- Improper communications between staff;
- Improperly handling subpoena demands for document production;
- Hiring appraisers that are not court certified and are ineligible to appear at trial.

When legal actions are taken by investors, the fumbling steps of an institution's staff appraisers and compliance people often result in a needless loss at trial.

In a recent lawsuit, the institution was found to have ordered appraisal reviews via an AMC that utilized out of state appraisers. The reviews were found to be defective and the institution was forced to buy back (repurchase) millions of dollars in loans. If the institution had used the right reviewers with the correct certifications, they may have won the case. Their attempt to save a few hundred dollars cost them millions. This course will give institutions a step by step plan to handle the appraisal related issues and avoid mistakes.

### **2 Hour**

#### **Marketing Questions:**

**4. Richard, what sort of mistakes have you observed during a repurchase demand?**

- The lender receiving the repurchase demand ordered a review appraisal however they used the wrong date on the review. As a result, they had a worthless review and were forced to give it to the other side prior to trial. They ended up helping the opposition prove the case against the lender. Ouch!
- In another case, all of the sales in the complex were fraudulently inflated. The original appraiser was inept. The lender failed to notify the **review appraiser** of the issue and he, following standard practices, used only sales within the complex, not knowing they were fraudulent. During trial the attorney for the investors **ripped the original appraiser, and the bank's review appraiser apart!** The institution paid millions for the oversight. (200+ units)

**5. We are part of the Appraisal Department; aren't repurchases someone else's problem?**

- a. Not really! The policies and procedures of the appraisal department are often brought into question and subject to subpoena, deposition and, trial testimony. The opposing side is permitted to examine any and all employees of the institution. Your big question: Is staff ready for a microscopic examination by an attorney?
- 6. Can we make a demand on the appraiser's E & O policy?**
- a. Maybe. Appraisers are getting out of the business in droves; What if they let the policy lapse? Now what? There're options, do you know what they are?
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## **Interagency Review of Foreclosure Policies and Practices**

The failure of foreclosure policies and procedures. How your institution can avoid making the same multi-million dollar mistakes. This class will analyze the recent actions taken against the top 14 institution for their failure to properly handle the foreclosure processes. Let their failures help your institution avoid this compliance nightmare.

The “Agencies” have completed their audit and review of foreclosure processing at 14 federally regulated mortgage servicers. The reviews were designed to evaluate the adequacy of controls and governance over servicers’ foreclosure processes and assess servicers’ authority to foreclose.

Examiners focused on foreclosure policies and procedures; quality control and audits; organizational structure and staffing; and oversight and monitoring of third-party law firms and other vendors. The agencies found **critical weaknesses** in multiple areas of **governance**, processes, documentation, oversight and monitoring of third-party vendors. The weaknesses resulted in unsafe and unsound practices and violations of applicable federal and state laws.

### **Problems include:**

- Failure to comply with applicable laws;
- An over reliance upon third-parties to facilitate the foreclosure and legal process;
- Failure to monitor and control third-party service providers;
- Inadequate quality control and internal audits;
- Poor policies and procedures;
- A lack of audit trails;
- Failure to identify and communicate risk to board of directors;
- Organizational failures.

### **2 Hour**

#### **Marketing Questions:**

#### **7. Another institution handles our foreclosures, is that OK?**

- Yes. The use of third-party service providers, including other institutions, is an acceptable practice. The problem has been inadequate policies, procedures, monitoring and training of both internal and external staff. The failures have led to excess failures of bank safety and soundness practices.

#### **8. Are these foreclosure problems limited to “judicial foreclosure” states?**

- a. No. Oregon, for example, is primarily a non-judicial foreclosure state. A court decision, just this week, negated the foreclosure process of an institution **after they foreclosed** on a home. They were prohibited from taking possession of the home. Think of that nightmare for the institution. This webinar will include information on that case.

#### **9. Isn't this just a problem with the large servicers/institutions?**

- a. No. Lender Processing Services, DoxX and, LPS Default Solutions, Inc. were all part the federal enforcement actions. These private companies are often used by mid and small size institutions. Their failures will trigger audits of institutions using their services.
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# Compliance, Audits and Foreclosures

## What “Robo-signers” mean to foreclosures and small lenders.

Front page news: Foreclosure problems due to “robo-signing” “lost documents, foreclosures frozen” “Investigation by the Attorney’s General in all 50 states.”

Due to the front page news, waves of problems are about to hit banks of every size. This Webinar will explain what’s headed your way, provide a description and explanation of the problems and their impact on bank’s operations and compliance. We will provide a brief explanation of the two major process for foreclosing on a property and how lenders can protect themselves during the process. We will go over worst case and best case scenarios. More importantly the problems with the foreclosure process are indicative of deeper issues with many lenders. We will explain the problems and provide warning signs so you can operate safely.

The failure to follow proper policies and procedures has brought on massive class-action lawsuits. We don’t want your institution to become a target of these suits.

This Webinar will cover or explain:

- The two major foreclosure process (judicial and non-judicial).
- What the “robo-signers” were asked to do.
- Status of the current multi-state investigations.
- How to spot the compliance issues before they become a problem.
- Simple changes that will help protect a lender.
- What questions auditors are likely to start asking.
- Overview of **recent** changes to foreclosure laws and bank requirements.

This Webinar will Include:

- Copies of several key indictments and class action lawsuits against lenders.
- Deposition testimony from the people who were running the “compliance” check for the lenders. Hear from the people and companies at the heart of the problem. Let their failures be your guide to better compliance.

## 2 Hour

### Marketing Questions:

We are a federally exempt institution, do we have to follow State laws regarding foreclosure?

- Yes. While institutions may have Federal preemptions from State Banking Laws, the foreclosure process is based upon State laws. Foreclosure laws and processes are specific to each of the 50 states. In addition, numerous states have changed their foreclosure laws making it a requirement that a bank provide counseling prior to initializing foreclosure.

2. Our institution sold a mortgage backed security however the note remained in our possession, in case we had to foreclose, is this a problem?

- Yes and a big one at that. Since the notes were not transferred to a trust and the trust is the only entity with the legal right to foreclose your Balance Sheets do not reflect reality and your legal rights maybe gone. Several institutions with this problem are faced with tax implications and legal issues that may bring about their end.

3. Isn't this just a "Big bank" issue?

No, absolutely not! While the first wave of news stories and complaints were against the top five lenders, recent discoveries have spread to lenders of all sizes. The failures are sometimes within the bank but often involve the "third-party" hired by the institution to facilitate the foreclosures.

4. Isn't this limited to the 23 States with judicial foreclosures?

No. Based upon recent investigations the "foreclosure problem" involves judicial as well as non-judicial (Deeds of Trust) States. Problems with how third-party vendors are handling mortgages and "deeds of trust" are at the very heart of the problem. Numerous loans are being canceled by the courts. This is no small matter.

5. The banks aren't foreclosing on anybody that doesn't deserve it. This is just a small problem - right?

· Sadly no. We have examples of lenders, big and small, foreclosing on homes that have no mortgages, the buyers paid cash for the property and yet a foreclosure has taken place. There are examples of people who are in the Military having their homes illegally taken away by foreclosure.

# SAFE Act - Compliance Issues

## Webinar #3 in our SAFE Act Series The policies and procedures before and after registration Licensing And Registration Are Only Part Of The Requirements

The SAFE Act brought about licensing and registration of loan originators. However SAFE also brought additional compliance issues involving senior staff, management, "System Administrator," policies, procedures, yearly reports, mortgage brokers, yearly compliance testing, new audit concerns, consumer access and use of MLO's unique ID numbers.

Past Webinars explained the SAFE Act and who must become registered or licensed. This Webinar will analyze and explain the compliance issues beyond the registration process.

### This Webinar will cover:

- Explaining who are and who are not required to be registered.
- The limits of the Registry and the responsibility of every Institution.
- Policies and Procedures, it's not so simple anymore.
- Compliance - who will be testing your institution!
- Procedures manuals for the institution, loan originator and non-originators.
- Avoiding lawsuits due to LO mistakes.
- The most common questions associated with compliance issues.

**2 Hour**

### Marketing Questions:

1. Our institution has designated several people to handle loan modifications and short-sales, do they have to be registered as loan originators?

- For the most part, no. However, each institution must ensure that these people are only modifying an existing loan and not generating a refinance or new loan. The Webinar will help analyze these job positions and show you where the limits exist.

2. Our institution wholesales and/or provides funding for brokered loans.

- a. Do they have to be registered or licensed?
  - b. In which state do they have to be licensed?
  - c. Do we have to check?
  - d. What if the broker's not licensed?
- Each institution must set up appropriate policies and procedures that cover interactions with mortgage brokers and external loan originators. The institution is responsible for checking the statuses of each party that provides services to, or deals with, the lending division, including mortgage brokers. Each loan originator has to be licensed in the state in which the property is located.
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# **Compliance Regarding Appraisals and AMCs**

## **The new reality under Dodd/Frank and SAFE Acts**

**Here we go again. New laws impact appraising and the use of AMCs**

No sooner had we finished our last Webinar on the appraisal topic, a new series of laws and regulations washed over us. The Dodd/Frank bill places tougher restrictions on appraisers, the people who interact with appraisers and licenses AMCs. These new laws will cause a second wave of fundamental changes to AMCs and the appraisal ordering system.

**Despite the reports of its demise, the HVCC isn't dead, it just has a new name.**

**Dodd Frank impact the HUD-1 and GFE, are your policies and procedures up to specifications?**

**And one more thing..... Fannie Mac has new appraisal requirements. Do you know what they are? Are you ready?**

**This Webinar will cover:**

- What's replacing the HVCC
- The Federal requirement for the licensing of AMCs
- Required changes to the HUD-1
- Banks are required to file complaints against bad appraisers and AMC - or face a fine themselves!
- FNMA's new requirements
- Compensation for the appraiser, what is "Normal and Customary" as required by law.

**2 Hour**

**Marketing Questions:**

1. Learning Connect had an "Appraisal Regulation" Webinar a couple of months ago, is this something new?

• Yes. Since our last Webinar, laws passed in 2008, 2009 and 2010 are becoming effective in 2011. Combine past laws with the new Dodd/Frank bill and Fannie Mae's requirements and you have more than enough changes to fill a two hour Webinar.

2. Appraisal laws and regulations are impacting the HUD-1... are you kidding?

• We are not kidding. The new laws require a separation of the appraisal fee from the appraisal management fee. Each entity is a provider of a separate service and commingling their fees is a RESPA and Dodd/Frank violation. This Webinar will explain the reasons and differences.

3. Why are appraisal fees suddenly increasing?

• The compensation system that has evolved over the past 4 years has been found to be problematic and has resulted in numerous class-action lawsuits against lenders. The new system, along with its higher costs, is designed to enhance transparency and provide better explanations to consumers.

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# Compensation

## New Federal Regulations Impact Compensation Mortgage Brokers, Loan Originators & Senior Staff

The Federal Reserve Board's new final rule on compensation goes into effect April 1, 2011. Are your policies and procedures ready? The way it was has come to an end and a new era of compensation begins.

Every lender, big and small, mortgage broker to commercial bank, private lenders to credit unions all must change their policies, procedures regarding compensation. The new compensation rules impact internal as well as external loan originators.

This Webinar will cover:

- Copies of the Federal Reserve Board's rule
- New Guidelines - Compensation for Senior Staff and Management
- Who's covered by the rules
- Compensation limits
- Exceptions and Safe Harbor rules
- Steering Prohibitions
- Dodd/Frank Act's impact
- Yield Spread Premiums
- Hiring of LOs
- Employees vs. Independent Contractors

**2 Hour**

### Marketing Questions:

1. Are YSP based on the interest rate prohibited?

- Yes and No. According to Federal and State regulations, loan originators are prohibited from receiving a YSP. However, YSPs can be used by the borrower. Numerous lenders were paying mortgage brokers based on the interest rate for the loan; This practice must stop. The Webinar will provide further explanation of the prohibitions and illegalities.

2. Is the compensation paid to an institution's senior staff impacted?

- Yes. Inter-agency rules combined with the "Fed" have a say in how senior staff are compensated. With the new oversight rules being implemented, compensation and the performance of a institution will be monitored.

3. Can we pay our MLO employees or external mortgage brokers based on the LTV ratio?

- No. Payment to MLOs and mortgage brokers cannot be based on loan terms including rate and LTV ratios.

4. We provide funding for mortgage brokers and other lenders. Can they "up-charge" for third-party fees?

- Up charges will be considered "compensation" to the mortgage broker. Institutions must be aware of these charges and adjust the broker's total compensation accordingly.

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## **The Importance of Call Reports**

Donna Shebetich of Allegheny County, Pa., has pleaded guilty in federal court to a charge of making a false entry in bank records, United States Attorney David J. Hickton announced. Shebetich pleaded guilty to one count before United States District Judge Arthur J. Schwab. In connection with the guilty plea, the court was advised that Shebetich, while employed as a vice president, director, and loan officer for Metropolitan Savings Bank (MSB) in Pittsburgh, a financial institution insured by the Federal Deposit Insurance Corporation (FDIC), electronically filed with the FDIC, as required, a quarterly report, commonly referred to as a "Call Report," for the quarter ended Sept. 30, 2006, which falsely and significantly under-reported mortgage loans which were outstanding and which were delinquent for 30 or more days for the purpose of deceiving the FDIC and its examiners.

The Call Report submitted by Shebetich indicated that MSB had \$0.00 in mortgage loans on which payments were overdue, when in truth, the books and records of the bank indicated that in excess of \$7 million in mortgage loans had payments outstanding for 30 days or more. The FDIC closed MSB on Feb. 2, 2007, after the FDIC conducted an on-site audit of the bank.

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## **How One Loan Originator Killed a Bank**

This class takes a look at how one loan originator, working for a small lender caused the institution to fail. This is an inside, behind the scenes look at how the loan originator operated, originated loans, manipulated software and failed to follow the policies and procedures of a multi-billion dollar institution. The result? Complete take over by the FDIC, civil charges against management and criminal charges against the loan officer. Sadly all of this could have been prevented if senior management paid attention. This class will point out the failure and help management understand what to look for to prevent this from happening to your institution.