

Appraiser Independence Requirements Frequently Asked Questions (FAQs)

November 2010

The Appraiser Independence Requirements (AIR) were developed by Fannie Mae, the Federal Housing Finance Agency (FHFA), Freddie Mac, and key industry participants to replace the Home Valuation Code of Conduct (HVCC). They went into effect October 15, 2010. The updated requirements maintain the spirit and intent of the HVCC and continue to provide important protections for mortgage investors, home buyers, and the housing market.

The following FAQs provide additional clarification on implementation of these requirements. Fannie Mae's and Freddie Mac's FAQs may differ to some extent in style or structure, but present no substantive differences in interpretation or implementation of these requirements, nor do they impose any different operational requirements.

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Scope of Coverage

Q1. What loans are affected by the Appraiser Independence Requirements (AIR)?

AIR applies to all loans of one- to four-unit properties, except government-insured loans as noted in Q5, delivered to Fannie Mae.

Q2. What are the professional requirements for an appraiser under AIR?

AIR requires that, at a minimum, an appraiser must be licensed or certified by the state in which the property to be appraised is located.

Q3. Does AIR allow an appraiser to update an appraisal for another lender?

Yes. AIR allows an appraiser to perform an update of an appraisal for another lender.

Q4. Who besides Fannie Mae has agreed to adopt AIR? The Federal Home Loan Banks? FHA?

As of this date, only Fannie Mae and Freddie Mac have agreed to adopt AIR.

Q5. Does AIR apply to a loan that is insured or guaranteed by a federal agency and ultimately sold to Fannie Mae (i.e., FHA or VA loan)?

AIR does not apply to loans that are insured or guaranteed by a federal agency, such as FHA and VA loans.

Q6. Is it permissible for Fannie Mae to purchase private-label securities backed by mortgage loans that do not meet the requirement of AIR?

Yes. AIR applies only to 1- to 4-unit single-family loans sold to Fannie Mae by mortgage originators. It does not extend to Fannie Mae's investments in mortgage-related securities.

Q7. Does AIR require lenders to obtain appraisals in cases which they were under no such requirement pursuant to the Fannie Mae *Selling Guide*?

No. Nothing in AIR requires a lender to obtain a property valuation, or to use any particular method for property valuation. AIR also does not affect the acceptable scope of work for an appraiser in connection with a particular assignment.

Q8. Does Section II specifically prohibit a lender from ordering a second appraisal?

No. Section II only prohibits a lender from ordering a second appraisal when they are attempting to influence the outcome of the first appraisal and are now "value-shopping." As a risk control measure for certain loan products, it may be common for a lender to order more than one appraisal, and this section does not prohibit that practice.

Q9. Does AIR specifically prohibit communication with an appraiser by a real estate agent?

No.

Q10. Does AIR apply to the Desktop Underwriter® Property Inspection Report (Form 2075)?

No. Form 2075 is an inspection report. It is not an appraisal; therefore, AIR does not apply.

Q11. Does AIR apply to appraisals performed for loss mitigation?

AIR applies to loans sold to Fannie Mae. It does not apply to appraisals performed for loss mitigation purposes.

Q12. How does Fannie Mae audit compliance with AIR?

Compliance with AIR will be part of the Fannie Mae's operational review of the lender. By selling us the loan, the lender represents and warrants compliance with all of the Fannie Mae *Selling Guide* requirements, including compliance with AIR.

Q13. Does AIR apply to non-appraisal valuation methods (i.e., automated valuation models [AVMs], broker price opinions [BPOs], tax assessments, etc.)?

No. AIR applies only to appraisals.

Q14. Is the definition of application date the actual date of the application or the date of receipt of the application by the lender?

The application date is defined as the date the borrower(s) signed the application certifying that the information is correct.

Q15. Does AIR require or prohibit the use of foreclosure data by appraisers?

AIR does not speak to foreclosure data. It is up to the appraiser to determine if the data is applicable and appropriate or not.

Selection of an Appraiser

Q16. Does AIR change any of Fannie Mae's requirements regarding the role of the appraiser?

No. The *Selling Guide* requirements for the appraiser remain at their same high level. Fannie Mae requires the appraiser to provide complete and accurate reports; to report neighborhood and property conditions in factual and specific terms; to be impartial and specific in describing favorable or unfavorable factors; and to avoid the use of subjective, racial, or stereotypical terms, phrases, or comments in the appraisal report. The opinion of market value must represent the appraiser's professional conclusion, based on market data, logical analysis, and judgment.

Additionally, it is important to note that when an appraiser signs Fannie Mae's residential appraisal report form, the appraiser is also certifying to the following:

"I have knowledge and experience in appraising this type of property in this market area."

And

"I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records, and other such data sources for the area in which the property is located."

Q17. When selecting an appraiser, may lenders use a pre-approved appraiser list or panel?

Yes. Lenders may use a pre-approved list or panel to select a residential appraiser, provided that (1) any employees of the lender tasked with selecting appraisers for the list are independent of the loan production staff; and (2) the loan production staff is not involved in selecting appraisers off the list for particular appraisal assignments.

Q18. How does Section I.B.(8) impact how lenders may remove appraisers from a list of qualified appraisers?

Section I.B.(8) addresses the removal of an appraiser from a list of qualified appraisers in connection with influencing or attempting to influence the outcome of an appraisal. However, Section I.B.(8) does not preclude the management of appraiser lists for bona fide administrative reasons based on written, management-approved policies. Also, Section VIII provides for lenders to have written policies and procedures implementing AIR, including rules on appraiser independence, and to have mechanisms in place to report and discipline anyone who violates these policies and procedures.

Q19. May a servicer use an affiliate company to order appraisals for borrower-initiated private mortgage insurance cancellation based on current value?

Yes. AIR does not apply to appraisals for cancelling mortgage insurance based on current value. AIR is specific to “a mortgage financing transaction,” and cancellation of mortgage insurance is not “a mortgage financing transaction.” The Fannie Mae *Servicing Guide* states that “To determine the current appraised value of the property, the servicer must select an appraiser, order a new appraisal (which must be based on an inspection of both the interior and exterior of the property and be prepared in accordance with our appraisal standards for new mortgage originations), and receive the results of the appraisal.”

Q20. Some lenders have proprietary automated origination systems that include a process for ordering appraisals. How does AIR impact those systems?

The lender must review its systems to ensure that the selection-of-appraiser process is in compliance with AIR.

Q21. Who should be considered the “loan production staff” for purposes of achieving appraiser independence?

The term “loan production staff” is not defined in AIR. However, the FAQs prepared by federal agencies on the agencies’ appraisal regulations specify as follows:

“The loan production staff consists of those responsible for generating loan volume or approving loans, as well as their subordinates. This would include an employee whose compensation is based on loan volume or the closing of a loan transaction. Employees responsible for the credit administration function or credit risk management are not considered loan production staff.”

Q22. Are processors, closers, secondary marketing employees, underwriters, etc., permitted to order appraisals if they do not receive commission or incentives to close loans, but they ultimately report up to a senior-level employee who is responsible for loan production?

AIR states that members of the lender’s loan production staff who are compensated on a commission basis or who report to any officer of the lender not independent of the loan production staff and process are not permitted to order appraisals or influence the selection of appraisers. Ideally, a seller should establish complete separation of appraisal activities from loan production activities. At an absolute minimum, the degree of separation should be no less than one level up in the reporting structure. To mitigate any potential conflict of interest due to

reporting relationships, sellers should establish, maintain, and enforce written policies and procedures that are designed to reinforce independence.

Q23. May a person on a lender's staff who is not part of the loan production staff and does not receive a bonus or commission based on loan closings provide an appraisal management company a list or panel of appraisers to use for loans involving a specified mortgage broker, real estate agent, or loan officer?

No person on a lender's staff may provide an appraisal management company a list or panel of appraisers to be used for loans involving a specified mortgage broker, real estate agent, or loan officer. AIR specifically prohibits lenders from accepting appraisal reports completed by an appraiser selected, retained, or compensated in any manner by mortgage brokers and real estate agents. Mortgage brokers and real estate agents must not be involved in the selection of appraisers for an approved panel or specific assignments under any circumstances. Please refer to Section IV.A for further information regarding who is authorized to select and retain appraisers.

Q24. What is the definition of a "correspondent" lender?

A "correspondent" is a third-party entity that may originate and underwrite the mortgage. The correspondent closes the mortgage in its own name with its own funds, and sells it to the lender. The mortgage is sold to Fannie Mae by the lender.

In-House Appraisers

Q25. May in-house appraisers prepare appraisal reports?

Yes. In-house appraisers may prepare appraisal reports in accordance with Section V.

Q26. May a correspondent lender use in-house appraisers?

Yes. A correspondent lender may use in-house appraisers if they meet the criteria in Section V.

Appraisal Management Companies (AMCs)

Q27. Is a lender required to use an AMC for ordering appraisals?

No. A lender may order appraisals directly from an individual appraiser.

Q28. May an AMC affiliated with, or that owns or is owned in whole or in part by the lender or a lender-affiliate, order appraisals?

Yes. An AMC affiliated with, or that owns or is owned in whole or in part by the lender or a lender-affiliate, may order appraisals if the AMC meets the criteria of Section IV.A.

Q29. May a lender direct a mortgage broker to a specifically authorized AMC that will receive information from the broker about the loan application and begin the appraisal process?

Yes. The lender may direct a broker to an authorized AMC if the lender has previously arranged for its appraisal process to be managed by the specifically authorized AMC. This process is compliant with AIR because the broker is not responsible for selecting, retaining, or providing for payment of compensation to the appraiser.

Q30. May a lender that uses a group of specifically authorized AMCs direct a broker to use a specific AMC from the group to submit information about the loan application and begin the appraisal process?

Yes. As stated in the answer to Q29, this process is compliant because the broker is not responsible for selecting, retaining, or providing for payment of compensation to the appraiser.

Q31. May a lender order an appraisal by directing a broker to select an AMC from among a group of specifically authorized AMCs, one of which would receive information from the broker about the loan application and begin the appraisal process?

No. Such a process would give the broker an element of responsibility for selecting or retaining the appraiser, and therefore would not be compliant.

Q32. May a lender direct a broker to use a Web portal set up either by the lender, or by the lender's authorized agent, through which the broker inputs a request for an appraisal and then triggers the lender's system to order an appraisal?

Yes.

Mortgage Brokers

Q33. May a lender accept an appraisal prepared by an appraiser that was ordered by a mortgage broker?

No. AIR does not allow a lender to accept an appraisal prepared by an appraiser that was ordered by a mortgage broker as noted in Section IV(A).

Q34. May a mortgage broker provide the lender with an approved appraiser list for the lender to use when ordering appraisals for that particular broker?

No.

Q35. May a mortgage broker order an appraisal directly from an AMC that was specifically authorized by the lender?

AIR prohibits brokers from ordering appraisal services, but brokers may initiate the appraisal process on a lender's behalf in accordance with arrangements made by the lender. See Q29 for details.

Q36. Does AIR permit a mortgage broker to select an appraiser from the lender's list of approved appraisers if the lender is responsible for the relationship with the appraiser, including compensation?

No. AIR prohibits lenders from relying on an appraisal if the broker had a role in selecting, retaining, or compensating the appraiser.

Transfer of the Appraisal

Q37. May an appraisal be transferred to a lender from a correspondent lender and, if so, under what circumstances?

Yes. A lender may accept an appraisal from a correspondent lender that complies with AIR.

Q38. A mortgage broker submits a loan to lender A, which orders an appraisal. The broker later decides to submit the loan to lender B because it is offering better terms, or for another reason. May the appraisal obtained by lender A be used by lender B (assuming the mortgage broker has no control over or involvement in the assignment)?

Yes. A lender may accept an appraisal transfer from a different lender. However, the lender delivering the loan to Fannie Mae makes all representations and warranties that the loan complies with the requirements of the Fannie Mae *Selling Guide* and related documents. Lender A must be named as client on the appraisal report.

Q39. Lender A (an approved Fannie Mae Seller/Servicer) originates and closes a loan in its name, but sells it to lender B (another Fannie Mae approved Seller/Servicer), which in turn sells that loan to Fannie Mae. Is lender B under any obligation to obtain a new appraisal?

No. Lender B may buy a closed loan from Lender A and sell the loan to Fannie Mae without a new appraisal if Lender B can represent and warrant that any appraisal conducted in connection with the loan conforms to AIR.

Payment for the Appraisal

Q40. If the appraisal is ordered by the lender in a manner compliant with AIR, are there any specific requirements about how the payment for the appraisal is transferred to the lender?

Except for the requirement that the broker may not be responsible for payment of compensation to the appraiser, AIR does not restrict how a lender obtains fees from a broker. So, for instance, a borrower may write a check to a broker, or provide their credit card information to a broker, for the broker to send to the lender or to an agent authorized by the lender.

Q41. Are borrowers precluded from providing payment for an appraisal to an AMC?

AIR does not prohibit a borrower from providing payment to an AMC; however, the borrower may not pay the appraiser directly for an appraisal.

Q42. Does AIR prohibit an appraiser from collecting payment for the appraisal directly from the borrower?

Yes. For loans to be eligible for delivery to Fannie Mae, AIR requires the lender or any third party specifically authorized by the lender to select, retain, and provide for all compensation to the appraiser.

Appraisal Report Copies

Q43. Does Section III require the lender to provide the borrower with the appraisal free of charge?

No. Section III requires the lender to provide, free of charge, a “copy” of any appraisal report completed in association with a specific loan. The lender may require the borrower to reimburse the lender for the cost of the appraisal.

Q44. What is the time frame for providing the “copy” of the appraisal?

The lender must provide the copy promptly upon completion of the appraisal, but no less than three **business** days prior to closing. The lender may use any means to provide the copy, including but not limited to mail, e-mail, overnight delivery, etc., as long as the borrower receives the copy no less than three business days prior to closing. The seller may provide the borrower at closing a revised copy of an appraisal and information as to the nature of any revisions, so long as the revisions had no impact on value.

Q45. What are the requirements of AIR Section III requiring borrower receipt of the appraisal?

AIR requires that a borrower be provided a copy of the appraisal no less than three business days prior to the closing of the loan. AIR allows for the borrower to waive the three-day requirement. Situations in which a borrower is unaware of his or her right to a copy of the appraisal prior to the three days and is then provided a waiver of that right at the closing table would not be compliant with the intent of AIR. The time period of rescission in a refinancing situation does not constitute a valid three-day waiver period.

AIR does not specify what form the waiver must take or whether it be oral or written. In addition, AIR does not prohibit that a waiver, given in a timely manner, be recorded at some later point when the parties are available. Each lender must develop its own policies, procedures, and documentation. For example, a lender may obtain a waiver from a borrower through an e-mail, phone call, or some other means, prior to the three-day period, and then have that waiver recorded in writing at the settlement table or at some other time.

The three-day period begins on the day of the receipt of the appraisal. For example, in a non-waiver situation, if a borrower received an appraisal on Monday, the closing could be held on Wednesday. Saturday is included for purposes of counting the three-day period. Sundays and legal holidays are not included for counting the three-day period.

Q46. AIR requires the lender to provide the borrower a copy of any appraisal report concerning the borrower's subject property promptly upon completion. In this instance, what is meant by "completion?"

The word "completion" is meant to reflect when the lender has reviewed and accepted the appraisal to include any changes or corrections required.

Q47. How is "closing" of the loan defined? Is closing the date the documents are executed or the date the funds are disbursed?

We define "closing" as the date the borrower executes the loan documents.

Q48. How is the lender required to provide the borrower with a copy of the appraisal?

AIR does not provide a specific method of delivery. The lender is responsible for ensuring that the borrower receives a copy of the appraisal.

Q49. Section III allows the borrower to waive the three-day requirement for receiving a copy of the appraisal. What is an acceptable procedure if the borrower chooses to waive the three-day requirement?

The lender is responsible for establishing a process and procedure for documenting a borrower's waiver of the three-day requirement.

Q50. Can a loan closing proceed if the lender in good faith and according to its policies and procedures sent a copy of the appraisal to the borrower in accordance with the three-day requirement, but the borrower did not receive the copy of the appraisal prior to the scheduled closing?

In those rare instances in which the lender followed its policies and procedures but the borrower did not receive the appraisal three days prior to closing, the loan may close without delay if the borrower waives the three-day requirement and is provided a copy of the appraisal on the day of closing. Although AIR does not specifically require written documentation of the borrower's waiver or receipt of the appraisal three days prior to closing, we advise lenders to have policies and procedures in place so they can document the borrower's receipt of the appraisal or the waiver should questions arise.

Appraisal Reviews

Q51. Who on the lender's staff, or on the staff of an authorized third party, may have communications with an appraiser to request a correction of objective factual errors in an appraisal report?

Communications with an appraiser regarding the corrections of objective factual errors in an appraisal report may be made by anyone on the staff of the lender, or on the staff of an authorized third party.

Q52. Who on the lender's staff, or on the staff of an authorized third party, may have communications with an appraiser relating to or having an impact on valuation, including ordering or managing an appraisal assignment?

Anyone who is not part of loan production staff or who is not compensated on a commission basis upon successful completion of a loan or anyone who does not report, ultimately, to any officer of the lender not independent of the loan production staff or process, may have communications with an appraiser relating to or having an impact on valuation, including ordering or managing an appraisal assignment.

Q53. Does AIR prohibit the appraiser from talking with the real estate agent involved in the subject transaction? Can the real estate agent provide comparable data and/or explain their pricing strategy to the appraiser?

AIR does not prohibit the appraiser from talking with the real estate agent. In many cases, real estate agents can be a source of data in the market in which the subject property is located. Any data provided by a third party must still be researched and verified independently by the appraiser. In addition, the appraiser is required to be provided a copy of the sales contract for a purchase money transaction.

Quality Control

Q54. Are there separate quality control requirements for AIR?

No. The lender is responsible for meeting Fannie Mae's quality control requirements, as specified in the *Selling Guide*, Part D, Ensuring Quality Control.

Q55. Does AIR require a lender to report appraiser misconduct to the applicable state certifying and licensing agency?

Yes. If a lender has reason to believe an appraiser is violating applicable laws or otherwise engaging in unethical conduct, they shall promptly refer the matter to the applicable board or agency in accordance with Section VII.

Compliance

Q56. Is a loan eligible for sale to Fannie Mae if the lender purchased the loan from a correspondent that did not comply with AIR in originating that loan?

No. It is the lender's responsibility to ensure that loans it purchases with intent to deliver to Fannie Mae comply with AIR and all of our Fannie Mae *Selling Guide* requirements.

Q57. Do sellers need to adopt policies to address potential misconduct such as bribery or intimidation of appraisers?

Yes. The seller is required under AIR to adopt written policies and procedures ensuring disciplinary rules on appraiser independence, including the principles detailed in Section I. The seller also must ensure that any third parties are in compliance with AIR.

View Appraiser Independence Requirements on eFannieMae.com.