Final Regulation June 7, 1994	Summary and Explanation
APPRAISALS REQUIRED. An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except as follows	All real estate-related financial transactions require an appraisal, prepared by a licensed or certified appraiser, except when an exemption applies.
EXEMPTIONS	
(1) Threshold. The transaction value is $250,000 or less. **EVALUATIONS ARE REQUIRED.**	Transactions of $250,000 or less do not require the services of a licensed or certified appraiser. CONSUMER DISCLOSURE ENCOURAGED. The agencies believe that a regulated institution should advise consumers whether the institution intends to have a licensed or certified appraiser prepare the estimate of value. This should be done early enough in the loan application process to allow the consumer to make an informed decision that the intended method of estimating the real estate's value meets his or her needs.
(2) Abundance of caution. A lien on real estate has been taken as collateral in an abundance of caution.	Real estate, taken as ***additional collateral*** or used as a basis for granting more favorable terms, is seen in its more traditional role as collateral protection. To use this exemption, the institution must document that the extension of credit is well supported by income or other collateral of the borrower and that the real estate is being taken as additional collateral. This regulation eliminates the narrow interpretations in the existing regulation and reduces unnecessary burden.
(3) Unsecured loans. The transaction is not secured by real estate.	When the institution has no security interest in the real estate, the underwriting decision does not rely on its value.
(4) Lien not related to the real estate's value. A lien on real estate has been taken for purposes other than the real estate's value.	The lien ensures the institution has control over and access to non-real estate collateral, which may include a business operating as a going concern. This exemption allows lenders and customers to avoid an unnecessary expense for real estate appraisals when the real estate's value is not important to the underwriting decision.

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(5) Business loans of $1 million or less when repayment of the loan does not depend on the sale of real estate or rental income from real estate for repayment. The transaction is a business loan that: (i) Has a transaction value of $1 million or less; and (ii) Is not dependent on the sale of, or rental income derived from, real estate as the primary source of repayment. **EVALUATIONS ARE REQUIRED.**	This exemption covers loans that meet three tests: (1) The loan must be a business loan; (2) It must be for $1 million or less; and, (3) The borrower's primary source of repayment cannot be from the sale of real estate or rental income derived from real estate. These loans may NOT be personal loans or loans to consumers. The business loan definition, described below, must be used in applying this exemption. This exemption benefits small- and medium-sized businesses that may have been prevented from borrowing because of the cost of obtaining an appraisal.
(6) Certain lease transactions. A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate.	Operating leases, which are not equivalent to the purchase or sale of the leased property, do not require Title XI appraisals. (This exemption is unchanged.)
(7) Renewals, refinancing, and other subsequent transactions. The transaction involves an existing extension of credit at the lending institution, provided that: (i) There has been no obvious and material change in the market conditions or physical aspects of the property that threatens the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies; or (ii) There is no advancement of new monies, other than funds necessary to cover reasonable closing costs. **EVALUATIONS ARE REQUIRED.**	The preamble offers detailed guidance on this exemption. Two classes of transactions are exempt from the appraisal requirement ***when renewed with the same institution***. To apply the exemption the institution must: (1) Focus on, and consider, the final effect of the decision to renew the transaction on the overall collateral protection the real estate affords. (This is a modification of the proposal.) (2) Provide only reasonable closing costs to an existing customer when renewing a transaction. (This was not explicitly addressed by the proposal.) This exemption helps borrowers who renew transactions before their stated maturity, for example, those who refinance a residential mortgage to obtain a lower interest rate.

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8) Purchase, sale of loans; loans secured by an interest in real estate, etc. The transaction involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities and each loan or interest in a loan, pooled loan, or real property interest met the OCC's regulatory requirements for appraisals at the time of origination.	Institutions can buy, sell, invest in, and extend credit secured by, notes secured by real estate or interests in real estate IF, when the loan was originated, an appraisal was obtained that met existing regulatory requirements. An institution may assume that the underlying loans in a mortgage-backed security had proper appraisals IF the issuer has made a public statement to that effect, such as in a prospectus. An institution also may use audit and sampling techniques to verify a seller's representations and warranties. This exemption supports the secondary market for loans.
(9) Government insured or guaranteed loans. The transaction is wholly or partially insured or guaranteed by a United States government agency or United States government sponsored agency.	Additional appraisal requirements are unnecessary for these loans because they are either wholly or partially insured or guaranteed by a United States government entity.
(10) Loans sold to Fannie Mae, Farmer Mac or Freddie Mac, for example. The transaction either: (i) Qualifies for sale to a United States government agency or a United States government sponsored agency; or (ii) Involves a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate.	This exemption covers loans that are intended to be sold to government entities, as well as transactions that qualify for sale to them. It also covers real estate loans supported by appraisals that meet the appraisal standards of Fannie Mae or Freddie Mac, such as loans for multifamily housing and jumbo mortgages. The preamble contains a list of government-sponsored agencies.
(11) Transactions by regulated institutions as fiduciaries. The regulated institution is acting in a fiduciary capacity and is not required to obtain an appraisal under other law.	Trust transactions do not require Title XI appraisals. When fiduciary transactions require an appraisal under some other law, the appraisal should conform to this regulation.

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(12) Appraisals are unnecessary to protect federal financial and public policy interests or safety and soundness of financial institutions. The OCC determines that the services of an appraiser are not necessary to protect federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution.	This exemption gives the agencies flexibility to make supervisory and regulatory decisions about future real estate transactions not envisioned by this regulation.
OTHER ASPECTS	
Business loan definition: Business loan means a loan or an extension of credit to any corporation, general or limited partnership, business trust, joint venture, pool, syndicate, sole proprietorship, or other business entity.	Loans to individuals or consumer loans do not qualify as business loans.
Evaluations required: For a transaction that does not require the services of a State certified or licensed appraiser, under paragraphs (a)(1), (a)(5), or (a)(7) of this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.	Although loans below the threshold, business loans of $1 million or less, and renewals do not require appraisals under Title XI, they require evaluations for safety and soundness reasons. An evaluation provides a general estimate of value and the information needed to make a prudent underwriting decision. The content and form of evaluations vary for different transactions. Institutions have discretion, within safe and sound banking practice, to determine the content and form of an evaluation. A institution may use its lending personnel to prepare evaluations if it establishes safeguards adequate to assure the integrity of the evaluation process.
Appraisals to address safety and soundness concerns: The OCC reserves the right to require an appraisal under this subpart whenever the agency believes it is necessary to address safety and soundness concerns.	This provision confirms the agencies' authority to require appraisals for a transaction that would otherwise be exempt under the appraisal regulation. This allows them to address safety and soundness concerns. This provision will be applied on a case-by-case basis to address real estate underwriting problems in individual institutions.

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Minimum appraisal standards - For federally related transactions, all appraisals shall, at a minimum: (a) Conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation unless principles of safe and sound banking require compliance with stricter standards; (b) Be written and contain sufficient information and analysis to support the institution's decision to engage in the transaction; (c) Analyze and report appropriate deductions and discounts for proposed construction or renovation, partially leased buildings, non-market lease terms, and tract developments with unsold units; (d) Be based upon the definition of market value as set forth in this subpart; and (e) Be performed by State licensed or certified appraisers in accordance with requirements set forth in this subpart.	The final rule retains five appraisal standards, deletes nine regulatory appraisal standards, and restores the use of the Departure Provision of the USPAP. It also retains a modified version of the deductions and discounts appraisal standard. To minimize technical conflicts between the appraisal regulation and the USPAP, bankers, and appraisers, the USPAP is referred to in, but is not part of, the final regulation. (This was Alternative III in the proposed rule.) References should be assumed to be to the most current edition of the USPAP. Institutions must ensure that written appraisal reports contain sufficient information and analysis to support lending decisions. Every appraisal must report the real estate collateral's market value as defined in this regulation. Appraisals also may include prospective values, based on projected events such as ongoing development, lease-up, stabilized occupancy, etc., to help the institution fulfill underwriting and loan monitoring requirements. In such cases, the appraisal must clearly identify any prospective value, describe the expected event, and provide the projected date on which the event is expected to occur. Prospective values are normally used when underwriting an acquisition, development and construction (ADC) real estate loan, not a loan secured by an existing home. The ASB is amending the USPAP, effective July 1, 1994. Some of the pending appraisal reporting changes may not be appropriate to underwrite a real estate transaction, but may be appropriate to monitor a loan on an ongoing basis. The OCC will revise its appraisal and evaluation guidelines to address these issues in greater detail.

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Appraiser independence. (b) Fee appraisers. (1) If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transaction. (2) A regulated institution also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if: (i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and (ii) The regulated institution determines that the appraisal conforms to the requirements of this subpart and is otherwise acceptable.	A regulated institution may accept an appraisal prepared by an appraiser engaged directly by another financial services institution, subject to three conditions: (i) the appraiser can have no interest in the property or the transaction; (ii) the appraisal must conform to this regulation; and (iii) the "accepting institution" must deem the appraisal acceptable. Institutions must select and directly engage the appraiser. ***Appraisals ordered by, or prepared for, a borrower cannot be used to support a federally regulated transaction.*** This requirement insulates appraisers from potential borrower influence and precludes a borrower from contacting an appraiser and contracting for an appraisal in the name of a regulated institution. An appraiser ***cannot*** have a direct or indirect interest, financial or otherwise, in the transaction or the property. This part of the regulation is more restrictive than the USPAP.