



Office of Thrift Supervision
Department of the Treasury

Scott M. Albinson
Managing Director

RESCINDED

This rescission applies to the transmitting document only and not the attached interagency guidance. Refer to (OCC 2000-33) for the status of the attached interagency guidance.

January 29, 2001

MEMORANDUM FOR CHIEF EXECUTIVE OFFICERS

FROM:

Scott M. Albinson

SUBJECT:

Statement on Real Estate Appraisal Standards

This past year, our Office along with the other federal banking agencies asked the Appraisal Standards Board (ASB) to affirm how appraisers should apply the Uniform Standards of Professional Appraisal Practice (USPAP) to comply with the minimum standards of the agencies' appraisal regulations. The areas of concern involved appraisals for commercial real estate properties and residential tract development projects, appraisal reviews, and appraiser independence. In response to this request, the ASB recently released the attached *Statement on Appraisal Standards No.10* (Statement) entitled "Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction". The ASB periodically issues Statements on Appraisal Standards to clarify, interpret, explain, or elaborate on USPAP.

The Statement is incorporated along with other revisions in the 2001 USPAP, effective as of January 1, 2001. The 2001 USPAP can be ordered through The Appraisal Foundation's web site at www.appraisalfoundation.org. Management should closely review the issues addressed in the Statement and confirm that the institution's appraisal function complies with 12 CFR Part 564 and Thrift Bulletin 55a (Interagency Appraisal and Evaluation Guidelines).

An institution's internal controls must promote compliance with appraisal program standards and applicable appraisal regulations and guidelines, as well as ensure that the institution engages competent and ethical appraisers. In utilizing appraisal services, if management finds that a State licensed or certified appraiser violates USPAP, applicable laws or engages in unethical or unprofessional conduct, the institution should make a referral to the appropriate state appraiser regulatory authority.

If you have any questions, contact Debbie Merkle at (202) 906-5688 or your local Regional office.

4524 **STATEMENT ON APPRAISAL STANDARDS NO. 10 (SMT-10)**

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4526 **SUBJECT: Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction**

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4528 **THE ISSUE:**

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4530 Federal financial institution regulatory agencies (agencies) have experience that indicate some appraisers are not
4531 following *Uniform Standards of Professional Appraisal Practice* (USPAP) and, when applicable, the agencies'
4532 appraisal regulations⁵¹ and guidelines⁵² issued by the Federal Deposit Insurance Corporation (FDIC), Federal Reserve
4533 Board (FRB), Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS). This is
4534 particularly true in appraisals of commercial real estate and residential tract development projects. The agencies'
4535 concerns involve three general appraisal areas: USPAP compliance, appraiser independence, and appraisal review.

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4537 Federally insured depository institutions recognize that the agencies' appraisal regulations and guidelines include the
4538 requirement that appraisals comply with USPAP in a federally related transaction.

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4540 Most appraisers recognize that the agencies' appraisal regulations and guidelines supplement the USPAP
4541 requirements when an intended user of the assignment results is a federally insured depository institution for a
4542 federally related transaction. However, some appraisers are uncertain as to:

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- 4544 • What does USPAP require when the intended user of assignment results is a federally insured depository
4545 institution and the intended use is in a federally regulated transaction, and
- 4546 • how do the agencies' appraisal regulations and guidelines, which include supplemental standards, affect
4547 the appraiser's scope of work and report content requirements?

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4549 **THE STATEMENT:**

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4551 This Statement provides appraisers, users of appraisal services, and enforcement bodies with clarification,
4552 interpretation, explanation, and elaboration to reaffirm an appraiser's USPAP obligations when performing an
4553 assignment for use by a federally insured depository institution in a federally related transaction.

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4555 The requirements in this Statement apply and are binding when the purpose of an assignment includes developing an
4556 opinion of market value of real property for intended use by a federally insured depository institution in a federally
4557 related transaction.

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4559 **ASB RESPONSE TO THE ISSUE:**

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4561 Each ASB response on how USPAP applies to a specific concern appears in *italics* followed by references to USPAP
4562 and guidance material in the Advisory Opinions section.

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4564 When the agencies' appraisal regulations and guidelines supplement USPAP requirements, this Statement notes the
4565 agencies' appraisal regulations or guidelines as SUPPLEMENTAL STANDARDS. The ASBs' statements about
4566 compliance with those requirements are in the context of the appraiser's obligation to comply with the ETHICS
4567 RULE or COMPETENCY RULE, as applicable.

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4569 Given the scope of this Statement, a Table of Contents is provided on the following page.

⁵¹ 12 CFR 323 (FDIC); 12 CFR 225, subpart G (FRB); 12 CFR 34.44, subpart C (OCC); and 12 CFR 564 (OTS)

⁵² *Interagency Appraisal and Evaluation Guidelines*, October 27, 1994

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4616 **A. GENERAL USPAP COMPLIANCE QUESTIONS:**

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4618 Appraisers who provide valuation services to a federally insured depository institution for use in a
4619 federally related transaction may be uncertain as to:

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- when USPAP applies;
- whether the COMPETENCY RULE requirements extend to a client's appraisal regulations and guidelines, which supplement USPAP;
- whether use of the DEPARTURE RULE is permitted;
- whether the JURISDICTIONAL EXCEPTION RULE applies in such assignments; and
- whether compliance with the client's appraisal regulations and guidelines that apply under the SUPPLEMENTAL STANDARDS RULE is a USPAP compliance requirement.

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4629 **1. Applicability of USPAP**

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Compliance with USPAP is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. The agencies' appraisal regulations and guidelines require appraisers' compliance with USPAP in an assignment where the intended user of the assignment results in a federally insured depository institution and the intended use is in a federally related transaction. Therefore, appraisers are bound to comply with USPAP in performing those assignments.

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USPAP Reference: ETHICS RULE Comment
Conduct section

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4641 **2. Competency is Required**

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Competency to perform an assignment includes the ability to complete the assignment in compliance with USPAP and any supplemental standards that the appraiser agrees are applicable in the assignment at the time the assignment is accepted by the appraiser.

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An appraiser violates the ETHICS RULE if he or she knowingly misrepresents his or her competency to complete an assignment in compliance with USPAP and the agencies' appraisal regulations and guidelines (supplemental standards).

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Failure to complete the assignment competently, in accordance with the applicable USPAP requirements and supplemental standards the appraiser agreed to in accepting the assignment, violates the COMPETENCY RULE.

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USPAP References: ETHICS RULE
COMPETENCY RULE
SUPPLEMENTAL STANDARDS RULE

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4659 **3. Departure is Permitted**

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The DEPARTURE RULE may be invoked in an appraisal assignment only when:

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- *the appraiser has determined that the scope of work in performing the appraisal assignment is not so limited that the results of the assignment are no longer credible;*
- *the appraiser has advised the client that the assignment calls for something less than, or different from, the work required by the specific requirements and that the report will clearly identify and explain the departure(s); and*
- *the client has agreed that performing the assignment as a limited appraisal would be appropriate, given the intended use.*

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USPAP Reference: DEPARTURE RULE

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4. Jurisdictional Exception 4672

None of the requirements in the agencies' appraisal regulations and guidelines cause a need to apply the JURISDICTIONAL EXCEPTION RULE. 4673
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USPAP Reference: JURISDICTIONAL EXCEPTION RULE 4676
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5. Supplemental Standards 4678
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The agencies' appraisal regulations and guidelines contain requirements that supplement USPAP. These supplemental standards, which affect an appraiser's obligations in several areas, include: 4680
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- a) *Appraiser Independence: The agencies' appraisal regulations require that an appraiser have no direct or indirect interest, financial or otherwise, in the property or the transaction.* 4684
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- b) *Departure: The agencies' appraisal regulations require that appraisals include sufficient information and analysis to support the institution's decision to engage in the transaction.* 4686
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- c) *Analysis: The agencies' guidelines require an appraisal to include the current market value of the property in its actual physical condition and subject to the zoning in effect as of the date of the appraisal (a current date of value).* 4688
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- d) *Reporting: The agencies' appraisal regulations require that appraisals be written.* 4691
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An appraiser accepting an assignment to be performed under the agencies' appraisal regulations and guidelines is obligated to complete that assignment in a manner that complies with the above and any other supplemental standards included in the agencies' appraisal regulations and guidelines. 4693
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USPAP Reference: SUPPLEMENTAL STANDARDS RULE 4698
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Specific Concerns Involving Noncompliance, Inconsistencies, and Omissions in Assignments Completed for Use by a Federally Insured Depository Institution in a Federally Related Transaction Are as Follows: 4700
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Bankers and examiners report that some appraisers are not following USPAP and the agencies' appraisal regulations and guidelines. Each area of noncompliance, inconsistency, or omission is noted in **bold and underlined text**, followed by the ASB's response in *italicized text* as to the appraiser's obligations to ensure compliance with USPAP. Where necessary, reference is also provided to the agencies' appraisal regulations and guidelines following the subheading of SUPPLEMENTAL STANDARDS RULE. 4703
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B. APPRAISER INDEPENDENCE ISSUES: 4710

1. Failing to follow existing appraisal standards to disclose present or prospective relationships with borrowers 4711
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Accepting an assignment involving parties or property in which the appraiser has a current or prospective interest that causes bias violates the ETHICS RULE. 4713
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Failure to disclose in the appraiser's certification any present or prospective relationships with a party involved with the assignment or the subject of the assignment violates Standards Rule 2-3. 4716
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SUPPLEMENTAL STANDARDS RULE: *The agencies' appraisal regulations do not permit an appraiser to accept an assignment involving a property or transaction in which the appraiser has a direct or indirect interest, financial or otherwise. If an appraiser who has such an interest violates the agencies' appraisal regulations by accepting such an assignment, he or she violates the SUPPLEMENTAL STANDARDS RULE.* 4722
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USPAP References: ETHICS RULE
COMPETENCY RULE
DEFINITIONS section, *Bias*
Standards Rule 2-3
SUPPLEMENTAL STANDARDS RULE

2. **Altering the title page, transmittal letter, or the identity of the intended user of an appraisal report to mislead the reader to believe the report was originally prepared for the lender and not the borrower**

Altering a report in a manner that conceals the original client or intended users in the assignment is misleading and violates the Conduct section of the ETHICS RULE. For example, an appraiser performs an appraisal and delivers the report to his client. The appraiser's client then asks the appraiser to readdress this appraisal to a specific federally insured depository institution. The client knows that the appraiser is on that institution's approved appraiser list. The appraiser knows, when the original assignment is offered, that the client intends to request a loan from that institution after the original appraisal is completed. Accommodating the client's request to readdress the appraisal report in this example violates the ETHICS RULE. Indeed, even if the appraiser did not know the client's original intent, altering such a report in a manner to conceal the original client or intended users violates the ETHICS RULE.

USPAP Reference: ETHICS RULE
USPAP Guidance: AO-10 *The Appraiser-Client Relationship*

C. **DEPARTURE ISSUES—MISUSING THE DEPARTURE RULE:**

1. **Insufficiently supporting an opinion of value that results in a conclusion that is not credible (by inappropriate use of the DEPARTURE RULE)**

Using departure as the basis for not completing a part of the appraisal process stated as a specific requirement in USPAP is not permitted unless the appraiser has satisfied all three conditions for such use set forth in the DEPARTURE RULE. The first condition is that the appraiser has determined that the scope of work in performing the appraisal assignment is not so limited that the results of the assignment are no longer credible. The appraiser has the burden of proof to support his or her scope-of-work decision [SR 1-2(f)], including the appropriateness of any departures. Failure to develop credible opinions and conclusions in an assignment wherein departure is invoked violates the DEPARTURE RULE and Standards Rule 1-2(f).

USPAP References: DEPARTURE RULE
Standards Rule 1-2(f)

2. **Failing to clearly identify and explain the reasons for the departure**

Failure to state and explain permitted departures from specific requirements in STANDARD 1 violates the applicable reporting rules [SR 2-2(a) or (b)(xi)] as well as the DEPARTURE RULE. For example, if a Cost Approach is applicable, but not necessary, in a particular assignment, and if the client and appraiser agree on departure by excluding this approach, the appraiser must state in the report that he or she is invoking departure and then identify and explain the departure and the specific requirement involved — in this case, SR 1-4(b).

USPAP References: DEPARTURE RULE
Standards Rule 1-4(b)
Standards Rules 2-2(a) and (b)(xi)

3.	<u>Omitting an approach to value that typical practice and peers would require</u>	4784
	<i>Omitting an approach to value that would be completed as typical practice by an appraiser's peers in the same or a similar assignment, without adequate and reasonable support for such omission, violates Standards Rule 1-2(f). For example, using other approaches while failing to develop an indication of value by a direct sales comparison approach [SR 1-4(a)] when there are sufficient sales for analysis and the market response to the property is most credibly indicated by direct sales analysis violates SR 1-2(f).</i>	4785 4786 4787 4788 4789 4790 4791
	<i>Failure to state and explain the reason for excluding any of the usual valuation approaches violates the applicable reporting rules [SR 2-2(a) or (b)(xi)].</i>	4792 4793 4794
	USPAP References:	4795
	DEPARTURE RULE	4796
	Standards Rule 1-2(e)	4797
	Standards Rules 1-4(a)	4798
	Standards Rule 1-2(f)	4799
	Standards Rules 2-2(a) and (b)(xi)	4800 4801
4.	<u>Failing to obtain written concurrence from the client that there is agreement with the use of departure</u>	4802
	<i>Use of the DEPARTURE RULE requires agreement by the client after the appraiser has informed the client that the assignment calls for something less than, or different from, the work required by the specific requirements and that the report will clearly identify and explain the departures. Failure to obtain the concurrence of a thus informed client violates the DEPARTURE RULE.</i>	4803 4804 4805 4806 4807 4808 4809
	<i>As a prudent professional practice, to ensure a common understanding of the scope of work to be completed in an assignment, appraisers could obtain written confirmation of the client's concurrence in the scope of work. This is particularly critical when departure is invoked as it documents the expectation and obligation of both parties and precludes either party being misled as to the scope of work. Such confirmation can be part of an engagement letter or other similar documentation.</i>	4810 4811 4812 4813 4814 4815 4816
	USPAP References:	4817
	DEPARTURE RULE	4818 4819
D.	USING HYPOTHETICAL CONDITIONS:	4820
1.	<u>Failing to disclose known facts concerning the physical, legal, or economic characteristics of the property being appraised when using a hypothetical condition</u>	4821 4822
	<i>When a property is appraised for market value as of a current date based on a hypothetical condition, an appraiser must ensure:</i>	4823 4824 4825
	<ul style="list-style-type: none"> • <i>That use of a hypothetical condition [SR 1-2(h)], such as when the subject property involves proposed improvements as of a current date [SR 1-4(h)], is appropriate and produces credible assignment results.</i> • <i>The appraisal report states the property use as of the date of value and the use reflected in the appraisal under the hypothetical condition [SR 2-2(a) or (b)(x)]. For example, the subject property that exists as of the date of value, which is a current date, is raw land but is appraised under a hypothetical condition as an improved property. The property use information included in response to Standards Rule 2-2(a) or (b)(x) must include the property characteristics relevant to both the existing and proposed uses.</i> 	4826 4827 4828 4829 4830 4831 4832 4833 4834 4835 4836
	<i>When the client requests a prospective value for the property under an extraordinary assumption [SR 1-2(g)] that the proposed improvement project or rehabilitation is completed as of a future date, an appraiser must ensure compliance with SR 1-4(h) and</i>	4837 4838 4839 4840

4841 review Statement on Appraisal Standards No. 4 (SMT-4), "Prospective Value Opinions."
4842 Additional guidance is contained in Advisory Opinion AO-17, "Appraisal of Real Property
4843 with Proposed Improvements."

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4845 USPAP References: Standards Rules 1-2(g) and (h)
4846 Standards Rule 1-4(h)
4847 Standards Rules 2-2(a) and (b)(x)
4848 Statement on Appraisal Standards No. 4 (SMT-4),
4849 Prospective Value Opinions
4850
4851 USPAP Guidance: Advisory Opinion AO-17, Appraisal of Real Property
4852 with Proposed Improvements
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4854 **2. Failing to indicate the "as is" value of the property as of the date of the report and how the**
4855 **"as is" value differs from the value conclusion under a hypothetical condition**

4856
4857 *When a property is appraised for market value as of a current date based on a hypothetical*
4858 *condition, an appraiser must ensure that the appraisal report contains appropriate*
4859 *disclosure of the hypothetical condition, including an indication of its impact on value [SR*
4860 *2-1(c) and SR 2-2(a) or (b)(viii)].*

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4862 *SUPPLEMENTAL STANDARDS RULE: The agencies' appraisal regulations require*
4863 *sufficient information and analysis to support the regulated institution's decision to engage*
4864 *in the transaction. The agencies' guidelines state that for federally related transactions,*
4865 *"an appraisal is to include the current market value of the property in its actual physical*
4866 *condition and subject to the zoning in effect as of the date of the appraisal" (current date*
4867 *of value). If, by failing to provide this opinion, when possible, an appraiser violates the*
4868 *agencies' appraisal regulation and guidelines, the appraiser violates the*
4869 *SUPPLEMENTAL STANDARDS RULE.*

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4871 *If it is not possible to provide an opinion as to the current market value of the property in*
4872 *its actual physical condition and subject to the zoning in effect as of the date of the*
4873 *appraisal, the appraiser must clearly explain the circumstances and reasons why such an*
4874 *opinion could not be developed and reported.*

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4876 USPAP References: ETHICS RULE
4877 COMPETENCY RULE
4878 Standards Rule 2-1(c)
4879 Standards Rules 2-2(a) and (b)(viii)
4880 SUPPLEMENTAL STANDARDS RULE

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4882 **E. ANALYSIS ISSUES:**

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4884 **1. Failing to adequately address real estate market risk (trends)**

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4886 *An appraiser must be certain that the gathering of factual information is conducted in a*
4887 *manner that is sufficiently diligent, given the scope of work as identified according to*
4888 *Standards Rule 1-2(f), to ensure that the data that would have a material or significant*
4889 *effect on the resulting opinions or conclusions are identified and, where necessary,*
4890 *analyzed [SR 1-1(b), Comment].*

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4892 *An appraiser must have sound reasons in support of the scope-of-work decision and be*
4893 *prepared to support the decision to exclude any information or procedure that would*
4894 *appear relevant to the client, an intended user, or the appraiser's peers in the same or a*
4895 *similar assignment. Failing to include in the scope of work sufficient market trend research*
4896 *and analyses to develop credible results violates Standards Rules 1-1(a) and (b) and*
4897 *Standards Rule 1-2(f).*

SUPPLEMENTAL STANDARDS RULE: *The agencies' appraisal regulations require sufficient information and analysis to support the regulated institution's decision to engage in the transaction. Market area trend analysis information is essential to the intended user's understanding of market risk and how market trend was addressed in developing the value opinion in a market value appraisal.*

Analysis of market area trend information is a necessary part of the scope of work to comply with the requirements stated in Standards Rules 1-3(a), 1-4(c)(iv), and 1-4(h)(iii). While departure is permitted from each of these specific requirements, an appraiser must ensure that the scope of work is not so limited that the results of the assignment are no longer credible. An appraiser has the burden of proof to support his or her scope-of-work decision [SR 1-2(f)], including the appropriateness of any departures in view of the agencies' appraisal regulations that require sufficient information and analysis to support the regulated institution's decision to engage in the transaction that prompted the need for the appraisal.

Standards Rule 1-3(a) includes the requirement to identify and analyze, among other things, economic demand and market area trends. The Comment to Standards Rule 1-3(a) states, "An appraiser must avoid making an unsupported assumption or premise about market area trends, ..." If an appraiser violates the agencies' appraisal regulations by failure to conduct sufficient research and analysis of market area trend data or by failure to include the result of such analysis in the appraisal report, the appraiser thus violates the SUPPLEMENTAL STANDARDS RULE.

Standards Rule 1-4(c)(iv) states, "When an income approach is applicable, an appraiser must: ... base projections of future rent and expenses on reasonably clear and appropriate evidence." The Comment to Standards Rule 1-4(c)(iv) states, "An appraiser must, in developing income and expense statements and cash flow projections, weigh historical information and trends, current demand and supply factors affecting such trends, and anticipated events such as competition from developments under construction" If an appraiser violates the agencies' appraisal regulations by failure to complete sufficient research and analysis of market area trends affecting rental and expense levels and relationships in an appraisal of income-producing commercial real estate in which an income approach was completed, or by failure to include the result of such analysis in the appraisal report, the appraiser thus violates the SUPPLEMENTAL STANDARDS RULE.

Standards Rule 1-4(h)(iii) states, "When appraising proposed improvements, an appraiser must examine and have available for future examination: ... reasonably clear and appropriate evidence supporting development costs, anticipated earnings, occupancy projections, and the anticipated competition at the time of completion." Market area trend information and analysis is essential to understand and evaluate the credibility of such information. If, an appraiser violates the agencies' appraisal regulations by failure to conduct sufficient research and analysis of market trends affecting these elements in an appraisal involving a property appraised with proposed improvements, or by failure to include the result of such analysis in the appraisal report, the appraiser thus violates the SUPPLEMENTAL STANDARDS RULE.

USPAP References: Standards Rule 1-1(b)
Standards Rule 1-2(f)
Standards Rules 1-3(a) and (b)
Standards Rules 1-4(c)(iv) and (h)(iii)
Standards Rule 2-2(a) or (b)(ix)
SUPPLEMENTAL STANDARDS RULE

USPAP References:	Standards Rules 1-2(b) and (c)	5006
	Standard Rule 1-3(a)	5007
	Standards Rules 1-4(e), (f), and (h)	5008
	Statement on Appraisal Standards No. 2 (SMT-2), <i>Discounted Cash Flow Analysis</i>	5009 5010
		5011
5.	<u>Providing an undiscounted value conclusion to an institution when the institution is financing the development of and not the end purchase of the individual unit(s); and failing to report appropriate deductions and discounts for a tract development appraisal</u>	5012 5013 5014 5015
	<i>When the intended use of assignment results is for tract development project financing and a market value opinion is developed by use of a discounted cash flow analysis (DCF), the DCF analyses must include appropriate market-based deductions and discounts to reflect market value (present worth).</i>	5016 5017 5018 5019 5020
	<i>When the subject of the appraisal is a proposed project and an analysis method is a DCF, or other methods that involve discounting, the time frame over which discounting occurs must be consistent with the project's overall production and completed unit absorption period. The factors applied should be market-derived and must reflect the market's anticipated response to the difference between the date of value and receipt of the cash flows, project risk, and market trends, not only the time-value of money.</i>	5021 5022 5023 5024 5025 5026 5027
USPAP References:	Standards Rules 1-2(b) and (e)	5028
	Standards Rules 1-4(e) and (h)	5029
	Statement on Appraisal Standards No. 2 (SMT-2), <i>Discounted Cash Flow Analysis</i>	5030 5031 5032
USPAP Guidelines	Advisory Opinion AO-23, <i>Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment.</i>	5033 5034 5035 5036
6.	<u>Failing to analyze a current agreement of sale, option, or listing of the property being appraised; and failing to identify and analyze all prior sales of the subject property (within required time frames), which may facilitate "land flip" deals</u>	5037 5038 5039 5040
	<i>Given the intended use of the assignment results by a federally insured depository institution, an appraiser must take all reasonable steps to gather and verify relevant information concerning the subject properties' current market activity and marketing history.</i>	5041 5042 5043 5044 5045
	<i>An appraiser can demonstrate due diligence efforts, in compliance with Standards Rule 1-1(b), to obtain relevant information regarding a current agreement of sale, option, or listing of the property being appraised [SR 1-5(a)] by documenting in the appraisal report the appraiser's direct inquiry to the federally insured depository institution, or its agent, that requested the appraisal service. Failure to make such due diligence effort, or failure to state adequate supporting reasons in response to Standards Rule 2-2(a) or (b)(ix) why such information is not relevant, violates Standards Rule 1-1(b).</i>	5046 5047 5048 5049 5050 5051 5052 5053
	<i>The time frames cited in Standards Rule 1-5(b) are minimums. If market activity concerning the subject property from prior periods is known and relevant, it should also be analyzed and addressed. The requirement is for an analysis of any sale that occurred in the minimum time frame, not just the most recent sale. For example, if a property sold twice within the minimum time frame, both sales must be analyzed. The summary of the sales' analyses reported in compliance with Standards Rule 2-2(a) or (b)(ix) must include data sufficient to identify each relevant prior sale of the subject, including (when available) sale date, amount, type and terms of financing if any, and names of the seller</i>	5054 5055 5056 5057 5058 5059 5060 5061

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and buyer. If relevant and necessary to a proper understanding of the sale, the conditions of sale and the property condition at sale must also be reported.

USPAP References: Standards Rule 1-1(b)
Standards Rules 1-5(a) and (b)
Standards Rules 2-2(a) and (b)(ix)

F. APPRAISAL REVIEW ISSUES:

1. Changing the market value opinion in the appraisal report without adequately supporting their opinion, thus producing a conclusion that is not credible

An appraiser functioning as reviewer may state his or her own opinion of value as part of the appraisal review assignment results, but that opinion must be developed in compliance with the requirements in STANDARD 1 applicable in the assignment that generated the work under review. When appropriate, the reviewer can use extraordinary assumptions regarding the elements of the work under review that the reviewer accepts as credible in support of the reviewer's value opinion. Elements of the work under review that the reviewer does not deem credible must be replaced by the reviewer's own scope of work in developing his or her value opinion. The overall scope of work used to support the reviewer's value opinion cannot be less than the scope of work applicable to the work under review.

USPAP References Standards Rules 3-1(c)-(g)
Standards Rule 3-2(d)

USPAP Guidelines Advisory Opinion AO-20, *An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*

2. Failing to meet minimum USPAP reporting requirements for an institution that requires USPAP Standard 3 reviews

An appraiser functioning as reviewer has the obligation to include information in the appraisal review report as required in Standards Rule 3-2(a)-(f).

USPAP References Standards Rule 3-2(d)

G. CONCLUSIONS:

• General USPAP Compliance Questions

Appraisers are bound to comply with USPAP in performing assignments where the intended user of the assignment results is a federally insured depository institution and the intended use is in a federally related transaction. Competency to perform an assignment includes the ability to complete the assignment in compliance with USPAP and any supplemental standards that the appraiser agrees are applicable in the assignment at the time the assignment is accepted by the appraiser.

An appraiser accepting an assignment to be performed under the agencies' appraisal regulations and guidelines is obligated to complete that assignment in a manner that complies with USPAP and the supplemental standards included in the agencies' appraisal regulations and guidelines.

Accepting an assignment that the appraiser knowingly cannot complete in compliance with USPAP and the agencies' appraisal regulations and guidelines that the appraiser agreed to in accepting the assignment violates the ETHICS RULE.

<i>Failure to complete the assignment competently, in accordance with the applicable USPAP requirements and supplemental standards the appraiser agreed to in accepting the assignment, violates the COMPETENCY RULE.</i>	5119 5120 5121 5122
• Appraiser Independence Issues	5123 5124
<i>The agencies' appraisal regulations, which supplement USPAP, do not permit an appraiser to accept an assignment involving a property or transaction in which the appraiser has a direct or indirect interest, financial or otherwise. If an appraiser who has such an interest violates the agencies' appraisal regulations by accepting such an assignment, he or she violates the SUPPLEMENTAL STANDARDS RULE.</i>	5125 5126 5127 5128 5129 5130
<i>Altering a report in a manner that conceals the original client or intended users in the assignment is misleading and violates the <u>Conduct</u> section of the ETHICS RULE.</i>	5131 5132 5133
• Departure Issues—Misusing the DEPARTURE RULE	5134 5135
<i>Failure to develop credible opinions and conclusions in an assignment wherein departure is invoked violates the DEPARTURE RULE and Standards Rule 1-2(f).</i>	5136 5137 5138
<i>Failure to state and explain permitted departures from specific requirements in STANDARD 1 violates the applicable reporting rules [SR 2-2(a) or (b)(xi)] as well as the DEPARTURE RULE.</i>	5139 5140 5141 5142
<i>Failure to state and explain the reason for excluding any of the usual valuation approaches violates the applicable reporting rules [SR 2-2(a) or (b)(xi)].</i>	5143 5144 5145
<i>Use of the DEPARTURE RULE requires agreement by the client after the appraiser has informed the client that the assignment calls for something less than, or different from, the work required by the specific requirements and that the report will clearly identify and explain the departures. Failure to obtain the concurrence of a thus informed client violates the DEPARTURE RULE.</i>	5146 5147 5148 5149 5150 5151
• Using Hypothetical Conditions	5152 5153
<i>The agencies' appraisal regulations require sufficient information and analysis to support the regulated institution's decision to engage in the transaction. The agencies' guidelines state that for federally related transactions, an appraisal is to include the current market value of the property in its actual physical condition and subject to the zoning in effect as of the date of the appraisal.</i>	5154 5155 5156 5157 5158 5159
<i>When such an appraisal with a current date of value is based on a hypothetical condition, the information in the appraisal report must include the appraiser's opinion of the current market value of the property in its actual physical condition and subject to the zoning in effect as of the date of the appraisal (current date of value). If, by failing to provide this opinion when possible, an appraiser violates the agencies' appraisal regulation and guidelines, the appraiser violates the SUPPLEMENTAL STANDARDS RULE. If it is not possible to provide an opinion as to the current market value of the property in its actual physical condition and subject to the zoning in effect as of the date of the appraisal, the appraiser must clearly explain the circumstances and reasons why such an opinion could not be developed and reported.</i>	5160 5161 5162 5163 5164 5165 5166 5167 5168

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- **Analysis Issues**

Failing to include in the scope of work sufficient market trend research and analyses to develop credible results violates Standards Rules 1-1(a) and (b) and Standards Rule 1-2(f).

If an appraiser violates the agencies' appraisal regulations by failure to conduct sufficient research and analysis of market area trend data or failure to include the result of such analysis in the appraisal report, an appraiser thus violates the SUPPLEMENTAL STANDARDS RULE.

If an appraiser violates the agencies' appraisal regulations by failure to complete sufficient research and analysis of market area trends affecting rental and expense levels and relationships in an appraisal of income-producing commercial real estate in which an income approach was completed, or failure to include the result of such analysis in the appraisal report, the appraiser thus violates the SUPPLEMENTAL STANDARDS RULE.

Using sales that are not arm's length in an appraisal for the purpose of determining market value is not acceptable appraisal practice when an adequate number of relevant arm's length sales are available for analysis. If market conditions result in the necessity to use sales that are not arm's length in an appraisal, the sale analysis must identify and apply appropriate adjustments to result in a value indication consistent with the terms and conditions of sale set forth in the market value definition applicable in the assignment.

It is inappropriate to value a subdivision or tract development project by adding together the values for the individual units of finished production. It is misleading to report the sum of the values for individual units of production as the market value of the subdivision or tract development project.

The use of non-market-based time constraints when analyzing a property produces a result that is not market value. When the purpose of an assignment includes client-specified marketing, sale, or acquisition conditions that are distinct from typical market conditions, it is misleading to label the result a market value opinion.

When the intended use of assignment results is for tract development project financing and a market value opinion is developed by use of a discounted cash flow analysis (DCF), the DCF analyses must include appropriate market-based deductions and discounts to reflect market value (present worth).

When the subject of the appraisal is a proposed project and an analysis method is a DCF, or other methods that involve discounting, the time frame over which discounting occurs must be consistent with the project's overall production and completed unit absorption period. The factors applied should be market-derived and must reflect the market's anticipated response to the difference between the date of value and receipt of the cash flows, project risk, and market trends, not only the time-value of money.

An appraiser must take all reasonable steps to gather and verify relevant information concerning the subject properties' current market activity and marketing history. The time frames cited in Standards Rule 1-5(b) are minimums. If market activity concerning the subject property from prior periods is known and relevant, it should also be analyzed and addressed. The requirement is for an analysis of any sale that occurred in the minimum time frame, not just the most recent sale. The summary of the sales' analyses reported in compliance with Standards Rule 2-2(a) or (b)(ix) must include data sufficient to identify each relevant prior sale of the subject, including (when available) sale date, amount, type and terms of financing if any, and the seller and buyer. If relevant and necessary to a proper understanding of the sale, the conditions of sale and the property condition at sale must also be reported.

• **Appraisal Review Issues**

An appraiser functioning as reviewer may state his or her own opinion of value as part of the appraisal review assignment results, but that opinion must be developed in compliance with the requirements in STANDARD 1 applicable in the assignment that generated the work under review.

An appraiser functioning as reviewer has the obligation to include information in the appraisal review report as required in Standards Rule 3-2(a)-(f).

Adopted July 10, 2000; Effective January 1, 2001

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