DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

Statement on the Conforming Loan Limit for 2008 and Revised Draft Examination Guidance

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Notice of availability of statement and request for comments on Revised Draft Examination Guidance.

SUMMARY: The Office of Federal Housing Enterprise Oversight is publishing today a Statement on the Conforming Loan Limit for 2008 and issuing for additional public comment a revised version of the Proposed Examination Guidance, entitled “Conforming Loan Limit Calculations” (Policy Guidance). Material in the proposed guidance does not constitute a regulation.

DATES: Comments on OFHEO’s Revised Draft Examination Guidance should be received by November 21, 2007.

ADDRESSES: Send all comments on OFHEO’s Revised Draft Examination Guidance to: the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: If you have any questions regarding OFHEO’s Revised Draft Examination Guidance, you may contact Alfred M. Pollard, General Counsel, at (202) 414-3800 (not a toll free number). The telephone number for the Telecommunications Device for the Deaf is: (800) 877-8339 (TDD Only).

SUPPLEMENTARY INFORMATION: OFHEO’s Revised Draft Examination Guidance is posted on the Internet at http://www.ofheo.gov. This document, as well as all others mentioned in the preamble can also be accessed on business days between the hours of 10 a.m. and 3 p.m., at the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect documents, please call the Office of General Counsel at (202) 414-6924.

Comments Invited: You may submit your comments on OFHEO’s Revised Draft Examination Guidance “by any of the following methods:”

- U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service: The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/Revised Draft Examination Guidance, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.
- Hand Delivery/Courier: The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments “Revised Draft Examination Guidance,” Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- E-mail: The e-mail address is: RegComments@OFHEO.gov.
- Internet: When accessing documents online at http://www.ofheo.gov, comments can be sent by clicking the link for November 13, 2007.

Instructions: All submissions of received comments must include the reference “Revised Draft Examination Guidance” in the subject line of the message. All comments received will be posted without change to http://www.ofheo.gov and will include any personal information provided.

I. Statement on the Conforming Loan Limit for 2008

On November 15, 2006, OFHEO announced that any decline in the house price index used to establish the conforming loan limit would not result in a decline in that limit for 2007. OFHEO also committed at that time to providing updated guidance on how future reductions in the house price index would affect the conforming loan limit.

On June 20, 2007, OFHEO released on its Web site for public comment a proposed revision to its existing Examination Guidance entitled “Conforming Loan Limit Calculations” (the original proposal). Today, OFHEO is publishing in the Federal Register for public comment a revised version of that proposed guidance (the revised proposal).

Both the original and revised proposal provide for holding the conforming loan limit constant, rather than having it decline, should the relevant house price index decline by a de minimis amount. The $650 decline in the conforming loan limit implied by last year’s house price index decline falls within the de minimis range as originally proposed and as proposed here.

Consistent with this intention of having a de minimis change exception to potential reductions in the loan limit, OFHEO is today affirming that the current $417,000 conforming loan limit will not be reduced in 2008, without regard to any reduction in the relevant house price index in 2007. Should the relevant house price index show an
increase in 2007, the conforming loan limit will either remain unchanged (if the increase is less than or equal to last year’s decline), or increase (if the increase exceeds last year’s decline, then that decline will be netted against this year’s increase). In any event, the current $417,000 conforming loan limit will not decline in 2008.

II. Request for Comment on Revised Examination Guidance, Conforming Loan Limit Calculations

The Office of Federal Housing Enterprise Oversight is publishing today for public comment a revised Examination Guidance, entitled Conforming Loan Limit Calculations. Following comments received on the original proposal, OFHEO determined to make certain changes and to provide an opportunity for public comment on the revised proposal. Among other sections addressing procedures for calculating and implementing increases and decreases to the conforming loan limit, the original guidance proposed in its core provisions that decreases be deferred one year and then only taken when they clear a de minimis amount. In short, the loan limit decrease that was deferred for 2007 will be deferred an additional year to 2009 if the underlying house price series declines again this year, as the previously deferred decrease was less than a de minimis amount (three percent). If the underlying series increases this year, the decrease will be subtracted from such increase in determining the maximum loan limits for 2008.

OFHEO provided for public comment on the proposed examination guidance on OFHEO’s Web site on June 20, 2007, and at the end of a thirty day comment period, some 23 comments from 25 organizations (representing over 2 million businesses) and individuals were received. OFHEO has taken these comments into consideration and has made alterations to the guidance.

Central to OFHEO’s consideration was assuring clarity in the process of calculating loan limits, providing for smooth market operations and affording certainty to those involved in making and securing mortgages—Fannie Mae and Freddie Mac, mortgage originators, and homebuyers.

The proposed guidance elaborated on, revised and superseded an existing guidance—Supervisory Guidance Conforming Loan Limit Calculations, SG–04–01 (February 20, 2004) that delineated OFHEO’s role in calculating and enforcing the conforming loan limit. In 2006, after a decline in housing price numbers, OFHEO announced that, while the conforming loan level had decreased, the resulting decline in the limit would be delayed a year. OFHEO also indicated it would revise and update the existing guidance and address how the decline would be implemented.

Background

Calculations for the conforming loan limit establish the maximum size of loans that Fannie Mae and Freddie Mac may purchase, as provided in their charters. The conforming loan limit is adjusted annually through a calculation of year over year changes to the existing level of home prices based on data from the Federal Housing Finance Board’s Monthly Interest Rate Survey (MIRS). Congress established the concept of loan size limit on purchases by Fannie Mae and Freddie Mac as an integral part of the creation of their “mission.” Statutory language relating to the conforming loan limit permits “adjustment of the conforming loan limit based on the ‘percentage increase’ of the prior year. The statutes did not address what would happen in the event that no increase occurred in the home price figures or the price figures declined. In November 2006, OFHEO acted to address this gap in the statutes, indicating that a decline or “negative increase” had occurred in 2006 and would be taken into account following a one year deferral. As well, OFHEO committed to a revision of its existing guidance to address the process and procedures involved in calculations and how decreases would be implemented.

Because of the importance of Fannie Mae and Freddie Mac and the conforming loan limit to the mortgage markets and the interest of other financial institutions, mortgage bankers, builders, realtors and others, OFHEO solicited public comment on the guidance.

OFHEO sought comment on all aspects of the guidance, noting certain key provisions. These were (1) addressing whether and how existing conforming loans should be grandfathered; (2) addressing a number of procedural matters, including rounding down announced loan limits to the nearest $100; and (3) providing clarity on declines in the conforming loan limit. As proposed, the decline would have to represent a greater than one percent drop in the loan limit (currently $417,000) or it would be deferred. Once deferrals reached one percent, then the total decline would be subtracted (one year later) from the conforming loan limit adjusting for any increase that had occurred. For example, the one percent threshold and one year lag mean that the earliest the 2006 and 2007 conforming loan limit of $417,000 could be adjusted downward would be in 2009. That would only occur if prices continued to decline in 2007 and the cumulative 2006–2007 decline exceeded one percent, even after netting any 2008 increase.

III. Comments and Changes to the Conforming Loan Limit Guidance

After a full review of comments, OFHEO has undertaken a number of changes and determined to publish a revised version of the guidance for additional comment.

1. Loan Limit Declines and Statute

Some comments received agreed with OFHEO’s determination while others disagreed. Most comments in opposition focused on statutory language relating to adding increases to an existing conforming loan limit or suggested that as a matter of policy declines should never be taken but rather be subtracted in years when the loan limit increased.

OFHEO determined that declines fit within the statutory language as “negative increases.” In the alternative, where statutory language is silent, as is the case here, regulators routinely fill gaps in statutes with rational solutions in line with available statutory intent. Since loan limit calculations are tied to annual home price surveys, increases and declines reasonably may be considered in line with that statutory structure. OFHEO has determined that filling the gap in statutory language is appropriate and sought to address, in light of comments, how its proposed guidance would be implemented.

2. Loan Limit Declines—Deferrals

Comments received suggested that a deferral period was preferred. Most commenters, whether they opposed declines or not, favored an implementation of declines in the conforming loan limit with as little market disruption as possible. OFHEO agrees that its implementation should result in the least impact on both market operations and provide the greatest certainty for planning in the mortgage markets.

The revised guidance would implement the proposed deferral of one year. This would permit markets well in advance to know that a decline may be forthcoming. Further, there will be certainty about the minimum level for the coming year.

In line with comments received, OFHEO has amended the language to clarify that no loan limit decreases of less than the de minimis amount will be required, and that any such amounts...
would be carried forward to the following year’s determination. Decreases would be deferred until they reach a cumulative three percent or until they are used to offset future increases, so that ultimately cumulative percentage changes in the maximum loan limits would not exceed cumulative percentage changes in the MIRS price series (after any adjustments for methodological changes).

3. Loan Limit Declines—De Minimis and How Applied

While comments received included those favoring the de minimis amount as proposed, many endorsed a larger de minimis amount to support OFHEO’s efforts to keep market impact to a minimum. Some argued that the de minimis amount should be larger, in part to reflect the volatility of the price series obtained from the Federal Housing Finance Board’s MIRS reports.

The proposed guidance, in light of comments received and a reexamination of the volatility in the MIRS price data, increases the de minimis amount from one percent to three percent. Because the maximum loan limits are based on 12-month changes (October-to-October) in the MIRS price series, we examined the history of 12-month changes. Volatility in that series is marked lower after 1993, but still large. Particularly noteworthy is the frequency of month-to-month reversals. One would expect the overlapping series of 12-month changes to be fairly smooth, but more often than not the 12-month change ending in any month is not within the range of 12-month changes ending in the preceding and succeeding months. That is, if the average price increased 3 percent in the 12 months ending in March, and it increased 8 percent in the 12 months ending in May, then more likely than not it either increased less than 3 percent or more than 8 percent in the 12 months ending in April.

Over the past 150 months, data for 96 months are outside the range of the preceding and succeeding months. In 61 cases, the middle month is more than one percentage point outside the range; in 35 cases, more than two percentage points; and in 16 cases, more than three percentage points. These results present strong evidence that a 12-month change of one or even two percent may easily be reversed the next month, and is therefore not an adequate justification for requiring a lowering of the loan limits. Some of these reversals do not reflect true turning points in house price behavior, however, most clearly do not. A reversal of 3 percent seems sufficiently unusual to assume it likely reflects a real change in house price trends.

Accordingly, OFHEO has revised the guidance to provide for three percent as the de minimis amount.

Declines in the loan limit would be applied as described in section 2 above and as described in the Appendix to the revised guidance.

4. Grandfathering Issues

Comments received suggested that proposed grandfathering of loans that conformed with the loan limit prior to a decline in the loan limit to facilitate operation of mortgage pipelines could be improved and clarified.

OFHEO determined that clarification was in order and, in line with comments received, has revised the guidance to provide that if a loan has been conforming at any time, it cannot become non-conforming by virtue of a subsequent decline in the loan limit. Modification of a loan would not change its origination date or whether it is within the loan limits.

5. Rounding Down and Other Matters

Comments received regarding a rounding down to the lowest $100 as opposed to the current OFHEO practice of rounding down to the lowest $50 were mixed with some opposing and others indicating either no objection to or no opinion on OFHEO’s proposal.

The revised guidance would adopt the approach of rounding down to the nearest $100 as having value as to market and consumer simplicity and understanding. Also, it would represent a doubling of this rounding standard, a much smaller percentage change than the increase in the loan limits since the $50 standard was adopted.

Accordingly, as stated in the Preamble, OFHEO is revising the Examination Guidance on Conforming Loan Limit Calculations as follows:


James B. Lockhart III,
Director, Office of Federal Housing Enterprise Oversight.

OFHEO

Examination Guidance

Issuance Date: October, 2007
Doc. #: PG—07—001
Subject: Conforming Loan Limit Calculations
To: OFHEO Examiners
OFHEO Associate Directors.

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a. General Procedures
limit is referred to as the conforming loan limit (CLI).

The Enterprises make this adjustment based on a survey conducted by the Federal Housing Finance Board (FHFB). The FHFB monthly conducts and publishes the results of a survey of mortgage interest rates, the Monthly Interest Rate Survey (MIRS). Under the Enterprise charters, the change in the national average one-family house price during the twelve-month period ending with the previous October as determined by the FHFB in its survey is the basis for changes to the conforming loan limit. The Enterprises apply the percentage change to the current year’s conforming loan limit to establish the next year’s limit. This number constitutes part of the determinations of the eligibility of loans for Enterprise purchases.

OFHEO as safety and soundness regulator has responsibility to oversee safe and sound operations and may act to redress violations of law by the Enterprises. In the case of the conforming loan limits OFHEO determined in 2004, following a problem in technical matters relating to the limits, that a more formalized process for establishing the conforming loan limit was needed.

(3) Background to Conforming Loan Limit Determinations

Since 1981, the Enterprises have adjusted the conforming loan limit as allowed under the Housing and Community Development Act of 1980. During this time frame, two types of occurrences have transpired that raise the need for a more formal process: (1) The Enterprises on some occasions adjusted their loan limits in a manner that is different from the survey results and (2) the Federal Housing Finance Board has made technical changes to its methodology for determining housing prices that the Enterprises have not reflected in their adjustments.

In 2006 and on three prior occasions, the average house price declined from October to October (in 1989, 1993, and 1994). In November 1989, the Enterprises reduced the 1990 conforming loan limit by $150 from the 1989 level based on a house price decline of 0.07 percent. In November 1993 and November 1994, however, the Enterprises announced that the conforming mortgage loan limit would remain constant at $203,150, despite two declines in house prices of 2.96 percent in 1993 and 1.46 percent in 1994 from a 1993 peak. After housing prices increased from October 1994 to October 1995, the Enterprises raised the limit for 1996 without any adjustment for the previous declines.

Additionally, in November 1997, the Enterprises took another course, setting a lower number than the adjustment produced. They determined that the 1998 conforming loan limit would increase by only 3.67 percent, even though the percentage change in house prices using FHFB data for 1996–1997 was 8.44 percent. The practical effect of this action was to adjust for the 1993 and 1994 price declines.

There have been three occasions when the Federal Housing Finance Board made methodological changes to the Monthly Mortgage Interest Rate Survey that required an adjustment to one or both of the reference years, that is, the prior or current year’s October calculation (in 1992, 1998, and 2003). In December 1992, the Enterprises determined that the 1993 conforming loan limit would increase 0.42 percent based on adjusted FHFB numbers for October 1991 and October 1992 national average one-family house price. In November 1998, the Enterprises determined that the 1999 conforming mortgage loan limit would increase by 5.66 percent based on an adjusted October 1997 house price survey. Therefore, in 1992 and again in 1998, the Enterprises used the adjusted national average one-family house price(s) provided by the FHFB.

In 2003, however, the Enterprises adopted a conforming loan limit that disregarded communications from the FHFB staff regarding a change in the methodology for estimating house prices. The Enterprises determined that the rise in the 2004 conforming loan limit would increase by 3.41 percent based on unadjusted national average house prices for October 2002 and October 2003. However, FHFB staff had indicated that the October 2003 national average house price should be adjusted downward by $1,647, a net increase of 2.71 percent.

Due to this inconsistent application of procedures for price declines and methodology changes, OFHEO issued a conforming loan limit guidance in 2004. To clarify elements of the existing guidance and to address the concerns around possible declines in the national average house price average, OFHEO announced in late 2006 that it would issue a new guidance to replace the 2004 issuance.

In 2006, the October national house price average declined by 0.16 percent from the previous October, which by the standard calculation would have reduced the maximum single family conforming loan limit from $417,000 to $416,300. OFHEO had previously indicated, however, that the effect of any decrease in the house price average would be deferred until the Fall 2007 calculation of the limits for the following year. OFHEO also stated that for the 2008 calculation, the decrease of 0.16 percent would be deducted from any increase in the average house price in the year ended October 2007 or, if the average price decreased, the loan limit would decrease by that amount. Left to be determined was how a further decline in 2008, if it occurred, would be treated and whether any existing loans would be grandfathered. The purpose of this guidance, that was subject to public notice and comment between June 20 and July 19, 2007, is to address these related issues.

b. Preservation of Existing Authority

Nothing contained in this guidance prevents OFHEO from undertaking such supervisory or enforcement actions as may be necessary to meet its statutory obligations to oversee maintenance of safety and soundness and adequate capital.

II. Calculation of Conforming Loan Limit

a. General Procedures

(1) Consistent with statute, OFHEO will utilize the October MIRS survey data (routinely released in November) to calculate the conforming loan limit for the following calendar year.

(2) Under the terms of an inter-agency agreement, the FHFB will provide OFHEO with the confidential October survey data prior to its public release.

(3) OFHEO will calculate the percentage change in the average house price, make any adjustment needed to reflect FHFB technological changes and determine the new maximum conforming loan limit for the following year. The result of the calculation will be rounded downward, in line with existing practice, to the nearest $100, for marketplace convenience and administrative simplicity.

(4) Immediately following the FHFB’s October MIRS announcement, OFHEO will announce the maximum level of the new conforming loan limit and simultaneously issue a letter with its determination to each Enterprise.

(5) Each Enterprise under its charter then determines whether to set the conforming loan limit at its institution at or below that level.

(6) The purchase of any mortgage above the limit by Fannie Mae or Freddie Mac will be considered an unsafe and unsound practice, running contrary to statute.
b. Procedures for Years in Which the House Price Level Declines

(1) In a year in which the October house price level is lower than the level of the previous October, OFHEO will defer the impact of that decline on the conforming loan limit for one full year. [The effect of the price level decline of 0.16 percent from October 2005 to October 2006 was deferred in this manner.]

(2) After deferring the impact of a decline in the average price level for one year:

[A] If the price level falls in the following year, the latter decline will be deferred one year, and the maximum loan limit will be adjusted by the decline of the former year;
[B] If the price level increases the following year, then the prior year’s decline will be subtracted from such increase; or
[C] If the procedure in (A) or (B) would result in a decrease for any year in the maximum loan limit of less than three percent, that decrease will be deferred. In the following year, the amount deferred will be netted against any increase, or added to any decrease, that would otherwise be determined. If the calculation would result in a decrease of less than 3 percent, that decrease also will be deferred until finally employed to offset future increases or until the net decrease accumulates to 3 percent or more.

(3) All loans that were within the conforming loan limit at the time of origination will continue to be deemed within the conforming loan limit during the remaining lives of such loans, regardless of whether the loan limit for any subsequent year declines to a level below the limit at the time of origination.

c. Procedures for Adjustments and Technical Changes

(1) At any time during the year after a calculation has been made and the conforming loan limit set, if the FHFB revises the MIRS or any calculation, the Enterprises may provide comments to the FHFB for its consideration. Copies of any Enterprise comments should be provided contemporaneously to OFHEO.

(2) Once the FHFB has determined the nature, scope and timing of technical changes or adjustments, OFHEO will make adjustments to the next year’s conforming loan limit based upon the procedures set forth in this Guidance.

III. Appendix

The following appendix provides examples of how a decline in the conforming loan limit would be implemented.

Examples of How Increases and Declines in House Prices Affect the Conforming Loan Limit Under OFHEO’s Examination Guidance

The following examples reflect how declines and increases would be addressed in future years under the final Examination Guidance: Conforming Loan Limit. Calculations:

In 2006, the conforming loan limit was $417,000. In 2006, the average house purchase price declined by 0.16 percent and this decline was deferred one year until the next calculation in November 2007 for the 2008 limits. OFHEO determined that declines always should be deferred a year and that they should accumulate to a three percent threshold before being implemented on the downside.

In November 2007,

(a) If the average house purchase price has gone up during the year, for example by 2 percent, the deferred decline of 0.16 percent would be subtracted, and the new loan limit beginning January 2008 would show an increase of 1.84 percent.

(b) If the average house purchase price has gone up during the year, for example by 0.10 percent, then the deferred decline would offset that 0.10 percent increase and a 0.06 percent% decline would be carried forward. The conforming loan limit would remain the same at $417,000.

(c) If the average house purchase price has gone down during the year, for example by 0.10 percent, then the deferred decline would be added to the 0.16 percent and carried forward until the next calculation in November 2008, as follows:

(i) If the average house purchase price goes up during 2008, the conforming loan limit will be calculated per (a) or (b) above with the offset being the cumulative deferred decline of 0.16 percent and the November 2007 decline;

(ii) If the average house purchase price goes down during 2008 and the cumulative deferred decline of 0.16 percent from 2006 and the decline from 2007 still total less than 3 percent, the conforming loan limit would remain at $417,000 in 2009; or

(iii) If the average house purchase price goes down during 2008 and the cumulative deferred decline of 0.16 percent from 2006 and the decline from 2007 still total less than 3 percent, the conforming loan limit would remain at $417,000 in 2009; or

(iv) If the average house purchase price goes down during 2008 and the cumulative deferred decline of 0.16 percent from 2006 and the decline from 2007 still total less than 3 percent, the conforming loan limit would remain at $417,000 in 2009; or

[FR Doc. E7–5189 Filed 10–19–07; 8:45 am]

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DEPARTMENT OF THE INTERIOR
Geological Survey
National Cooperative Geologic Mapping Program (NCGMP) Advisory Committee

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 106–148, the NCGMP Advisory Committee will meet in Room 1787 of Building 25 at the Federal Center, Denver, CO.

The advisory Committee, composed of scientists from Federal Agencies, State Agencies, academic institutions, and private companies, will advise the Director of the U.S. Geological Survey on planning and implementation of the geologic mapping program.

Topics to be reviewed and discussed by the Advisory Committee include the:

• Progress of the NCGMP towards fulfilling the purposes of the National Geological Mapping Act of 1993
• Updates on the Federal, State, and educational components of the NCGMP
• Report from the Subcommittee on an implementation plan for the National Geological and Geophysical Data Preservation Program

DATES: November 1–2, 2007 commencing at 8:30 a.m. on November 1 and adjourning by 5 p.m. on November 2.


SUPPLEMENTARY INFORMATION: Meetings of the National Cooperative Geologic Mapping Program Advisory Committee are open to the Public.


William H. Werkheiser,
Acting Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 07–5189 Filed 10–19–07; 8:45 am]

BILLING CODE 4311–AM–M

DEPARTMENT OF THE INTERIOR
Bureau of Land Management
[CO–140–08–1610–DP]


AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.


DEPARTMENT OF THE INTERIOR
Bureau of Land Management
[CO–140–08–1610–DP]


AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.


DEPARTMENT OF THE INTERIOR
Bureau of Land Management
[CO–140–08–1610–DP]


AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.