

Prudent Lender Clause' in Valuation Reports

The purpose of this article is to clarify API/APIV's position relating to the inclusion of the 'Prudent Lender Clause' in valuation reports prepared for lenders. The API/APIV previously highlighted this issue in August 2017 where a lender had requested Members to not include the Prudent Lender Clause in valuation reports for that lender.

Where valuation of real property is undertaken for mortgage finance purposes, all API and APIV members must ensure that their report includes the following (or similar) clause in the valuation report:

This valuation is prepared on the assumption that the lender as referred to in the valuation report (and no other), may rely on the valuation for mortgage finance purposes and the lender has complied with its own lending guidelines as well as prudent finance industry lending practices, and has considered all prudent aspects of credit risks for any potential borrower, including the borrower's ability to service and repay any mortgage loan. Further, the valuation is prepared on the assumption that any such lender is providing mortgage financing at a conservative and prudent loan to value ratio. This clause (Prudent Lenders Clause) only applies if the lender is not a lender regulated by the Banking Act 1959 (Cth).

Further, pursuant to Clause 13.2 of the APIV Insurance Standards, all members of the APIV must ensure that their professional indemnity insurance policy contains an express provision that reinforces this requirement.

Accordingly, most Valuers' professional indemnity insurance policies contain a provision that excludes insurance coverage for any claim relating to a valuation of real property undertaken for a lender unless:

- the lender is an Authorised Deposit-Taking Institution within the meaning of the *Banking Act 1959 (Cth)*; or
- the valuation report to the lender includes the above Prudent Lender Clause.

Such exclusions are appropriately in place to ensure that the professional indemnity insurance market for the profession continues to be stable and to protect the integrity of the APIV Professional Standards Scheme - the purpose of which is to promote consumer protection and to ensure that there is an adequate compensation regime in place for consumers of valuation of real property.

All API and APIV members should include the Prudent Lender Clause in valuation reports where valuation of real property is undertaken for mortgage finance purposes.

The API and APIV are of the view that the inclusion of the Prudent Lender Clause in valuation reports issued to any lender should be acceptable, provided that the wording utilised is identical to, or materially the same as, the Clause set out above.