Billing Codes: 4810-33-P; 6210-01-P; 6714-01-P; 7535-01-P; 4810-AM-P

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
[Docket ID OCC-2023-0007]

FEDERAL RESERVE SYSTEM
[Docket No. OP-1809]

FEDERAL DEPOSIT INSURANCE CORPORATION
RIN 3064-ZA36

NATIONAL CREDIT UNION ADMINISTRATION
[Docket ID NCUA-2023-0061]

CONSUMER FINANCIAL PROTECTION BUREAU
[Docket No. CFPB-2023-0033]

Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations

AGENCY: Board of Governors of the Federal Reserve System (Board); Consumer Financial Protection Bureau (CFPB); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); and Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Proposed interagency guidance with request for comment.

SUMMARY: The Board, CFPB, FDIC, NCUA, and OCC (together, the agencies) are issuing proposed guidance that would highlight risks associated with deficient residential real estate valuations and describe how financial institutions may incorporate reconsiderations of value (ROV) processes and controls into established risk management functions. The proposed guidance would also highlight examples of policies and procedures that a financial institution may choose to establish to help identify, address, and mitigate the risk of discrimination impacting residential real estate valuations.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Interested parties are encouraged to submit written comments to any and all agencies listed below. Comments submitted to the Federal eRulemaking Portal will be shared with all agencies for consideration. Comments should be directed to:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title "Joint Guidance on Reconsiderations of Value of Residential Real Estate Valuations" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal – Regulations.gov:* go to *https://regulations.gov/* Enter "Docket ID OCC-2023-0007" in the Search Box and click "Search." Public comments can be submitted via the "Comment" box below the displayed document information or by clicking on the document title and then clicking the "Comment" box on the top-left side of the screen. For help with submitting effective comments please click on "Commenter's Checklist." For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday-Friday, 9am-5pm ET, or e-mail *regulationshelpdesk@gsa.gov*.

- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street, SW., suite 3E-218, Washington, DC 20219.

Instructions: You must include "OCC" as the agency name and "Docket ID OCC-2023-2007" in your comment. In general, the OCC will enter all comments

received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

- *Viewing Comments Electronically – Regulations.gov:* Go to *https://regulations.gov/*. Enter "Docket ID OCC-2023-0007" in the Search Box and click "Search." Click on the "Documents" tab and then the document's title. After clicking the document's title, click the "Browse Comments" tab. Comments can be viewed and filtered by clicking on the "Sort By" drop-down on the right side of the screen or the "Refine Results" options on the left side of the screen. Supporting materials can be viewed by clicking on the "Documents" tab and filtered by clicking on the "Sort By" drop-down on the right side of the screen or the "Refine Documents Results" options on the left side of the screen. For assistance with the Regulations.gov site, please call 1-866-498-2945 (toll free) Monday-Friday, 9am-5pm ET, or e-mail regulationshelpdesk@gsa.gov.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Board: You may submit comments, identified by Docket No. OP-1809, by any of the following methods:

• *Agency Web Site: http://www.federalreserve.gov*. Follow the instructions for submitting comments at http://www.federalreserve.gov/apps/foia/proposedregs.aspx.

• *Email: regs.comments@federalreserve.gov*. Include the docket number in the subject line of the message.

• *Fax:* (202) 452-3819 or (202) 452-3102.

• *Mail:* Ann Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

In general, all public comments will be made available on the Board's web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, and will not be modified to remove confidential, contact or any identifiable information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. during federal business weekdays. Please call (202) 452-3684 to make an appointment to visit the Board and inspect comments.

FDIC: The FDIC encourages interested parties to submit written comments. Please include your name, affiliation, address, email address, and telephone number(s) in your comment. You may submit comments to FDIC, identified by RIN 3064-ZA36, by any of the following methods:

• FDIC Website: *https://www.fdic.gov/resources/regulations/federal-register-publications/*. Follow the instructions for submitting comments on the FDIC's website.

• Mail: James P. Sheesley, Assistant Executive Secretary, Attention: Comments/Legal OES (RIN 3064-ZA36), Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• Hand Delivery/Courier: Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7:00 a.m. and 5:00 p.m.

• Email: *comments@fdic.gov*. Comments submitted must include "RIN 3064-ZA36" in the subject line of the message.

Public Inspection: Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/*. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

NCUA: You may submit written comments, identified by "Docket No. NCUA-2023-0061" by any of the following methods (**please send comments by one method only**):

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments for "Docket No. NCUA-2023-0061."

• *Email: PRAcomments@ncua.gov.*

- Mail: Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

You may view all public comments on the Federal eRulemaking Portal at http://www.regulations.gov as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. If you are unable to access public comments on the Internet, you may contact NCUA for alternative access by calling (703) 518-6540 or e-mailing *OGCMail@ncua.gov.*

CFPB: You may submit comments, identified by Docket No. CFPB-2023-0033, by any of the following methods:

- *Federal eRulemaking Portal*: *https://www.regulations.gov.* Follow the instructions for submitting comments.

- *Email*: 2023-IAA-ResidentialROV@cfpb.gov.

- *Mail/Hand Delivery/Courier*: Comment Intake – Interagency ROV, Consumer Financial Protection Bureau, c/o Legal Division Docket Manager, 1700 G Street NW, Washington, DC 20552.

Instructions: The CFPB encourages the early submission of comments. All submissions should include the agency name and docket number for this document. Because paper mail in the Washington, DC, area and at the CFPB is subject to delay, commenters are encouraged to submit comments electronically. In general, the CFPB will post all comments received without change to *https://www.regulations.gov.*

The CFPB will make all comments, including attachments and other supporting materials, part of the public record and subject to public disclosure. You should not

include proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals. The CFPB will not edit comments to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT:

OCC: Siddarth Rao, Fair Lending Compliance Policy Specialist, (732) 635-2070; Joanne Phillips, Counsel, or Marta Stewart-Bates, Counsel, Chief Counsel's Office, (202) 649-5490; Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

Board: Carmen Holly, Lead Financial Institutions Policy Analyst, Division of Supervision and Regulation, (202) 973-6122; Keshia King, Lead Supervisory Policy Analyst, Division of Consumer and Community Affairs, (202) 452-2496; Trevor Feigleson, Senior Counsel, (202) 452-3274, or Derald Seid, Senior Counsel, (202) 452-2246, Legal Division. For users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services, please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Patrick J. Mancoske, Senior Examination Specialist, Division of Risk Management Supervision, (202) 898-7032; Stuart Hoff, Senior Policy Analyst, Division of Depositor and Consumer Protection, (202)898-3852; Legal Division: Navid Choudhury, Counsel, (202) 898-6526, *nchoudhury@fdic.gov*, or Mark Mellon, Counsel, (202) 898-3884, *mmellon@fdic.gov*. Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

NCUA: Naghi Khaled, Director of Credit Markets, or Walonda Hollins, Senior Credit Specialist, Office of Examination and Insurance, (703) 216-5136; Ernestine Ward, Director, Division of Consumer Compliance Policy & Outreach, Office of Consumer Financial Protection (703) 518-6524; National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

CFPB: Makalia Griffith, Counsel; Woody Anglade, Senior Counsel; Tim Lambert, Fair Lending Programs Lead and Senior Counsel, Office of Fair Lending and Equal Opportunity, at 202-435-7000. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Board, the CFPB, the FDIC, the NCUA, and the OCC are proposing interagency guidance (proposed guidance) on ROVs of residential real estate valuations. Collateral valuations, including appraisals,[1] are important to the integrity of the residential real estate lending process. Deficient collateral valuations can contain inaccuracies due to errors, omissions, or discrimination that affect the value conclusion and can result in either overvaluing or undervaluing real estate collateral. The Board, FDIC, NCUA, and the OCC have previously issued guidance that describes actions a financial institution may take to correct deficiencies identified in collateral valuations.[2] These actions include ordering a second appraisal or evaluation or resolving the

[1] Appraisal means "a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information." 12 CFR 34.42(a) (OCC); 12 CFR 323.2(a) (FDIC); 12 CFR 225.62(a) (Board); 12 CFR 722.2 (NCUA).

[2] *See* Interagency Appraisal and Evaluation Guidelines, 75 FR 77450 (Dec. 10, 2010).

deficiency through the original appraiser or preparer of the evaluation.[3]

The agencies, collectively, do not have existing guidance specific to ROV processes. For purposes of the proposed guidance, an ROV is a request from the financial institution to the appraiser or other preparer of the valuation report to re-assess the report based upon potential deficiencies or other information that may affect the value conclusion.[4] The agencies have received questions and comments from financial institutions and other industry stakeholders on ROVs, highlighting the uncertainty in the industry on how ROVs intersect with appraisal independence requirements and compliance with Federal consumer protection laws, including those related to nondiscrimination.

II. Description of Proposed Joint ROV Guidance

The proposed guidance describes how financial institutions may create or enhance ROV processes that are consistent with safety and soundness standards, comply with applicable laws and regulations, preserve appraiser independence, and remain responsive to consumers. The proposed guidance (1) describes the risks of deficient collateral valuations, (2) outlines applicable statutes, regulations, and existing guidance that govern ROVs and collateral valuations, (3) explains how ROV processes and controls can be incorporated into existing risk management functions such as appraisal review and complaint management, and (4) provides examples of ROV policies, procedures, and controls that financial institutions may choose to adopt.

III. Request for Comment

[3] The NCUA uses the term "written estimate of market value" in place of the term "evaluation." *See* 12 CFR 722.3.

[4] ROVs may arise from a consumer requesting a financial institution to reexamine a valuation.

The agencies seek comment, from all interested parties, on all aspects of the proposed guidance, and in particular request comment on the following:

1) *To what extent does the proposed guidance describe suitable considerations for a financial institution to take into account in assessing and potentially modifying its current policies and procedures for addressing ROVs?*
    a) *What, if any, additional examples of policies and procedures related to ROVs should be included in the guidance?*
    b) *Which, if any, of the policies and procedures described in the proposed guidance could present challenges?*
2) *What model forms, or model policies and procedures, if any, related to ROVs would be helpful for the agencies to recommend?*
3) *What other guidance may be helpful to financial institutions regarding the development of ROV processes?*
4) *To what extent, if any, does the proposed ROV guidance conflict, duplicate, or complement the existing Interagency Appraisal and Evaluation Guidelines or a financial institution's policies and procedures to implement those Guidelines?*

IV. Paperwork Reduction Act Analysis

In accordance with the Paperwork Reduction Act (PRA) of 1995[5], the OCC, Board, FDIC, and NCUA reviewed the proposed guidance. The agencies may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The agencies have determined that certain aspects of the proposed guidance

[5] 44 U.S.C. 3506.

constitute a collection of information and are revising their information collections related to real estate appraisals and evaluations. The OMB control number for each agency is: OCC, 1557-0190; Board, 7100-0250; FDIC, 3064-0103; and NCUA, 3133-0125. These information collections will be extended for three years, with revision. In addition to accounting for the PRA burden incurred as a result of this proposed guidance, the OCC, Board, FDIC, and NCUA are also updating and aligning their information collections with respect to the hourly burden associated with the Interagency Appraisal and Evaluation Guidelines.

Abstract: The proposed guidance encourages financial institutions to implement ROV policies, procedures, and control systems to allow consumers to provide the financial institution with relevant information that may not have been considered during an appraisal or evaluation. Such policies and procedures create a recordkeeping requirement.

Frequency of Response: Annual.

Affected Public: Businesses, other for-profit institutions, and other not-for-profit institutions

Respondents:

OCC: National banks, Federal savings associations

Board: State member banks (SMBs), bank holding companies (BHCs) and nonbank subsidiaries of BHCs

FDIC: Insured state nonmember banks and state savings associations, insured state branches of foreign banks

NCUA: Private Sector: Not-for-profit institutions

Burden:

OCC:

Table 1. Summary of Estimated Annual Burden (OMB No. 1557-0190)				
Requirement	**Citations**	**Number of Respondents**	**Burden Hours Per Respondent**	**Total Number Of Hours Annually**
Recordkeeping: Resolution stating plans for use of property	§ 7.1024(d)	6	5	30
Recordkeeping: ARM loan documentation must specify indices to which changes in the interest rate will be linked	§ 34.22(a) § 160.35(b)	164	6	984
Recordkeeping: Appraisals must be written and contain sufficient information and analysis to support engaging in the transaction	§ 34.44	976	1,465 responses per respondent @ 5 minutes per response	119,072
Recordkeeping: Written policies (reviewed annually) for extensions of credit secured by or used to improve real estate	§ 34.62; appendix A to subpart D to part 34; § 160.101; appendix A to § 160.101	1,413	30	42,390
Recordkeeping: Real estate evaluation policy to monitor OREO	§ 34.85	9	5	45
Recordkeeping: New IC 1 – ROV Guidance – Policies and Procedures (Implementation: Applies to first year only)	N/A	930	40	37,200
Recordkeeping: New IC 2 – ROV Guidance – Policies and Procedures (Ongoing)	N/A	930	2	1,860
Recordkeeping: New IC 3 – Interagency Appraisal and Evaluation Guidelines – Policies and Procedures	N/A	976	10	9,760
Reporting: Procedure to be followed when seeking to use an alternative index	§ 34.22(b); § 160.35(d)(3)	249	6	1,494
Reporting: Prior notification of making advances under development or improvement plan for	§ 34.86	6	5	30

OREO				
Disclosure: Default notice to debtor at least 30 days before repossession, foreclosure, or acceleration of payments	§ 190.4(h)	42	2	84
Disclosure: New IC 4 – Interagency Appraisal and Evaluation Guidelines	N/A	976	5	4,880
			Total Annual Burden Hours	**217,829**

Board:

Table 2. Summary of Estimated Annual Burden (OMB No. 7100-0250)				
FR Y-30	***Estimated number of respondents***	***Estimated annual frequency***	***Estimated average hours per response***	***Estimated annual burden hours***
Recordkeeping				
Sections 225.61 - 225.67 for SMBs	701	519	5 minutes	30,318
Sections 225.61 - 225.67 for BHCs and nonbank subsidiaries of BHCs	4,714	25	5 minutes	9,821
Guidelines	5,415	1	10	54,150
Policies and Procedures ROV guidance (Initial setup)	5,799	1	13.3	77,127
Policies and Procedures ROV guidance (Ongoing)	5,799	1	2	11,598
Disclosure				
Guidelines	5,415	1	5	27,075
Total				**210,089**

FDIC:

Table 3. Summary of Estimated Annual Burden (OMB No. 3064-0103)					
Information Collection (Obligation to Respond)	**Type of Burden (Frequency of Response)**	**Average Annual Number of Respondents**	**Number of Responses per Respondent**	**Time per Response (Hours/Minutes)**	**Annual Burden (Hours)**
Recordkeeping Requirements Associated with Real Estate Appraisals and Evaluations (Mandatory)	Recordkeeping (On Occasion)	3,038	250	5 minutes (0.083)	63,039

New IC 1 – ROV Guidance – Policies and Procedures - Implementation (Voluntary)	Recordkeeping (Annual)	2,976	1	5 hours (15 hours divided by 3 years)	14,880
New IC 2 – ROV Guidance – Policies and Procedures – Ongoing (Voluntary)	Recordkeeping (Annual)	2,976	1	1 hours	2,976
New IC 3 – 2010 Guidelines – Policies and Procedures – Ongoing (Voluntary)	Recordkeeping (Annual)	3,038	1	10 hours	30,380
New IC 4 – 2010 Guidelines - Disclosure – Ongoing (Voluntary)	Disclosure (Annual)	3,038	1	5 hours	15,190
				Total Annual Burden (Hours):	***126,465***

NCUA:

Table 4. Summary of Estimated Annual Burden (OMB No. 3133-0125)

Information Collection	**Type of Burden**	**Average Annual Number of Respondents**	**Number of Responses per Respondent**	**Time per Response (Hours)**	**Annual Burden (Hours)**
Recordkeeping Requirements Associated with Real Estate Appraisals and Evaluations	Recordkeeping (On Occasion)	3,648	618	0.0825	185,993
New IC 1 – ROV Guidance – Policies and Procedures – Implementation	Recordkeeping (Annual)	3,237	1	5	16,185

New IC 2 – ROV Guidance – Policies and Procedures – Ongoing	Recordkeeping (Annual)	3,237	1	1	3,237
New IC 3 – 2010 Guidelines – Policies and Procedures – Ongoing	Recordkeeping (Annual)	3,648	1	10	36,480
New IC 4 – 2010 Guidelines - Disclosure – Ongoing	Disclosure (Annual)	3,648	1	5	18,240
Total Annual Burden Hours					**260,135**

Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on the collections of information should be sent to the address listed for each agency in the ADDRESSES section of this document. A copy of the comments may also be submitted

to OMB: by mail, to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; by facsimile, to 202-395-6974; or by email, to oira_submission@omb.eop.gov, Attention: Federal Banking Agency Desk Officer.

V. Text of Proposed Interagency ROV Guidance

Background

Credible collateral valuations, including appraisals, are essential to the integrity of the residential real estate lending process. Deficiencies identified in valuations, either through an institution's valuation review processes or through consumer provided information may be a basis for financial institutions to question the credibility of the appraisal or valuation report. Collateral valuations may be deficient due to prohibited discrimination;[6] errors or omissions; or valuation methods, assumptions, data sources, or conclusions that are otherwise unreasonable, unsupported, unrealistic, or inappropriate. Deficient collateral valuations can keep individuals, families, and neighborhoods from building wealth through homeownership by potentially preventing homeowners from accessing accumulated equity, preventing prospective buyers from purchasing homes, making it harder for homeowners to sell or refinance their homes, and increasing the risk of default. Valuations that are not credible may pose risks to the financial condition and operations of a financial institution. Such risks may include loan losses, violations of law, fines, civil money penalties, payment of damages, and civil litigation.

Applicable Statutes, Regulations, and Guidance

[6] For the purposes of this guidance, "discrimination" is prohibited discrimination based on protected characteristics in the residential property valuation process. For these purposes, "valuation" includes appraisals, evaluations, and other means to determine the value of residential property.

The Equal Credit Opportunity Act (ECOA), and its implementing regulation, Regulation B, prohibit discrimination in any aspect of a credit transaction.[7] The Fair Housing Act (FH Act) and its implementing regulation prohibit discrimination in all aspects of residential real estate-related transactions.[8] ECOA and the FH Act prohibit discrimination on the basis of race and certain other characteristics in all aspects of residential real estate-related transactions, including in residential real estate valuations. In addition, section 5 of the Federal Trade Commission Act prohibits unfair or deceptive acts or practices[9] and the Consumer Financial Protection Act prohibits any covered person or service provider of a covered person from engaging in any unfair, deceptive, or abusive act or practice.[10]

The Truth in Lending Act (TILA) and its implementing regulation, Regulation Z, establish certain federal appraisal independence requirements.[11] Specifically, TILA and Regulation Z prohibit compensation, coercion, extortion, bribery, or other efforts that may impede upon the appraiser's independent valuation in connection with any covered transaction.[12] However, Regulation Z also explicitly clarifies that it is permissible for covered persons[13] to, among other things, request the preparer of the valuation to

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[7] *See* 15 U.S.C. 1691 *et seq*. and 12 CFR part 1002. Regulation B requires creditors to (1) provide an applicant a copy of all appraisals and other written evaluations developed in connection with an application for credit that is to be secured by a first lien on a dwelling; and (2) provide a copy of each such appraisal or other written valuation promptly upon completion, or three business days prior to consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is earlier. *See* 12 CFR 1002.14(a)(1).

[8] *See* 42 U.S.C. 3601 *et seq*. and 24 CFR part 100.

[9] *See* 15 U.S.C. 45(a)(1).

[10] *See* 12 U.S.C. 5531, 5536.

[11] *See* 15 U.S.C. 1601 *et seq.* and 12 CFR part 1026.

[12] See 12 CFR 1026.42(c)(1).

[13] "Covered persons" include creditors, mortgage brokers, appraisers, appraisal management companies, real estate agents, and other persons that provide "settlement services" as defined in section 3(3) of the Real Estate Settlement Procedures Act (12 USC 2602(3)) and the implementing regulation. *See* 12 CFR 1026.42(b)(1).

consider additional, appropriate property information, including information about comparable properties, or to correct errors in the valuation.[14]

The Board's, FDIC's, NCUA's, and OCC's appraisal regulations[15] implementing Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989[16] require all appraisals conducted in connection with federally related transactions to conform with the Uniform Standards of Professional Appraisal Practice (USPAP), which requires compliance with all applicable laws and regulations including nondiscrimination requirements.

The Board's, FDIC's, NCUA's, and OCC's appraisal regulations also require appraisals to be subject to appropriate review for compliance with USPAP.[17] Financial institutions generally conduct an independent review prior to providing the consumer a copy of the appraisal or evaluation; however, additional review may be warranted if the consumer provides information that could affect the value conclusion or if deficiencies are identified in the original appraisal. An appraisal does not comply with USPAP if it relies on a prohibited basis set forth in either the ECOA or the FH Act or contains material errors including errors[18] of omission or commission. If a financial institution determines through the appraisal review process, or after consideration of information later provided by the consumer, that the appraisal does not meet the minimum standards

[14] *See* 12 CFR 1026.42(c)(3)(iii).
[15] *See* 12 CFR part 34, subpart C (OCC); 12 CFR part 208, subpart E and 12 CFR part 225, subpart G (FRB); 12 CFR part 323 (FDIC); 12 CFR part 722 and 12 CFR part 701.31 (NCUA).
[16] P. L. 101–73, title XI, 103 Stat. 511 (1989), codified at 12 U.S.C. 3331 *et seq*.
[17] *See* 12 CFR 34.44(a) (OCC); 12 CFR 225.64(c) (Board); 12 CFR 722.4(c) (NCUA); and 12 CFR 323.4(c) (FDIC).
[18] An error of omission is neglecting to do something that is necessary, e.g., failing to identify the subject property's relevant characteristics. An error of commission is doing something incorrectly, e.g., incorrectly identifying the subject property's relevant characteristics.

outlined in the agencies' appraisal regulations and if the deficiencies remain uncorrected, the appraisal cannot be used as part of the credit decision.[19]

The Board, FDIC, NCUA, and OCC have issued interagency guidance describing actions that financial institutions may take to resolve valuation deficiencies.[20] These actions include resolving the deficiencies with the appraiser or preparer of the valuation report; requesting a review of the valuation by an independent, qualified, and competent state certified or licensed appraiser; or obtaining a second appraisal or evaluation. Deficiencies may be identified through the financial institution's valuation review or through consumer provided information. The regulatory framework permits financial institutions to implement ROV policies, procedures, and control systems that allow consumers to provide, and the financial institution to review, relevant information that may not have been considered during the appraisal or evaluation process.

Use of Third Parties

A financial institution's use of third parties in the valuation review process does not diminish its responsibility to comply with applicable laws and regulations.[21] Moreover, whether valuation review activities and resolving deficiencies are performed

[19] *See* 12 CFR 34.44 (OCC); 12 CFR 225.64 (Board); 12 CFR 323.4 (FDIC); and 12 CFR 722.4 (NCUA). In addition, under TILA, if at any point during the lending process the financial institution reasonably believes, through appraisal review or consumer-provided information, that an appraiser has not complied with USPAP or ethical or professional requirements for appraisers under applicable State or Federal statutes or regulations, the financial institution is required to refer the matter to the appropriate State appraisal regulatory agency if the failure to comply is material. *See* 12 CFR 1026.42(g).
[20] *See* Interagency Appraisal and Evaluation Guidelines, 75 FR 77450 (Dec. 10, 2010).
[21] *See* OCC Bulletin 2013-29, "Third-Party Relationships: Risk Management Guidance;" CFPB Compliance Bulletin and Policy Guidance; 2016-02, Service Providers (Oct. 2016); FDIC FIL-44-2008, "Guidance for Managing Third-Party Risk" (June 6, 2008); SR Letter 13-19 / CA Letter 13-21, "Guidance on Managing Outsourcing Risk" (December 5, 2013, updated February 26, 2021). The NCUA does not currently have supervisory or enforcement authority over third-party credit union vendors and service providers. The NCUA issued LTR 07-CU-13 "Evaluating Third Party Relationships." to communicate guidance to examiners on a standard framework for reviewing third party relationships.

internally or via a third party, financial institutions supervised by the Board, FDIC, NCUA, and the OCC are required to operate in a safe and sound manner and in compliance with applicable laws and regulations, including those designed to protect consumers.[22] In addition, the CFPB expects financial institutions to oversee their business relationships with service providers in a manner that ensures compliance with Federal consumer protection laws, which are designed to protect the interests of consumers and avoid consumer harm.[23] A financial institution's risk management practices include managing the risks arising from its third-party valuations and valuation review functions.

Reconsiderations of Value

An ROV request made by the financial institution to the appraiser or other preparer of the valuation report encompasses a request to reassess the report based upon deficiencies or information that may affect the value conclusion. A financial institution may initiate a request for an ROV because of the financial institution's valuation review activities or after consideration of information received from a consumer through a complaint, or request to the loan officer or other lender representative.[24]

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[22] *See* Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1) (which requires each appropriate Federal banking agency to prescribe safety and soundness standards for insured depository institutions). The Federal banking agencies implemented section 1831p-1 by rule through the "Interagency Guidelines Establishing Standards for Safety and Soundness." *See* 12 CFR part 30, appendix A (OCC); 12 CFR part 208, appendix D-1 (Board); and 12 CFR part 364, appendix A (FDIC). *See* also 12 U.S.C. 1786 (b); 12 U.S.C. 1789; and 12 CFR 741.3 (NCUA).

[23] CFPB Compliance Bulletin and Policy Guidance; 2016-02, Service Providers (Oct. 2016).

[24] *See* Interagency Appraisal and Evaluation Guidelines, 75 FR 77450, 77463 (Dec. 10, 2010). "An institution should establish policies and procedures for resolving any inaccuracies or weaknesses in an appraisal or evaluation identified through the review process, including procedures for: Communicating the noted deficiencies to and requesting correction of such deficiencies by the appraiser or person who prepared the evaluation. An institution should implement adequate internal controls to ensure that such communications do not result in any coercion or undue influence on the appraiser or person who performed the evaluation. Addressing significant deficiencies in the appraisal that could not be resolved with the original appraiser by obtaining a second appraisal or relying on a review that complies with Standards Rule

A consumer inquiry or complaint regarding a valuation would generally occur after the financial institution has conducted its initial appraisal or evaluation review and resolved any issues identified. Given this timing, a consumer may provide specific and verifiable information that may not have been available or considered when the initial valuation and review were performed. Regardless of how the request for an ROV is initiated, a request could be resolved through a financial institution's independent valuation review or other processes to ensure credible appraisals and evaluations.

An ROV request may include consideration of comparable properties not previously identified, property characteristics, or other information about the property that may have been incorrectly reported or not previously considered, which may affect the value conclusion. To resolve deficiencies, including those related to potential discrimination, financial institutions can communicate relevant information to the original preparer of the valuation and, when appropriate, request an ROV.

Complaint Resolution Process

Financial institutions can capture consumer feedback regarding potential valuation deficiencies through existing complaint resolution processes. The complaint resolution process may capture complaints and inquiries about the financial institution's products and services offered across all lines of business, including those offered by third parties, as well as complaints from various channels (such as letters, phone calls, in person, transmittal from regulators, third-party valuation service providers, emails, and social media). Depending on the nature and volume, appraisal and other valuation-based

3 of USPAP and is performed by an appropriately qualified and competent State certified or licensed appraiser prior to the final credit decision. Replacing evaluations prior to the credit decision that do not provide credible results or lack sufficient information to support the final credit decision."

complaints and inquiries can be an important indicator of potential risks and risk management weaknesses. Appropriate policies, procedures, and control systems can adequately address the monitoring, escalating, and resolving of complaints including a determination of the merits of the complaint and whether a financial institution should initiate an ROV.

Examples of Policies, Procedures, and Control Systems

Financial institutions may consider developing risk-based ROV-related policies, procedures, control systems, and complaint processes that identify, address, and mitigate the risk of deficient valuations, including valuations that involve prohibited discrimination, and that:

- Consider ROVs as a possible resolution for consumer complaints related to residential property valuations.
- Consider whether any information or other process requirements related to a consumer's request for a financial institution to initiate an ROV create unreasonable barriers or discourage consumers from requesting an ROV.
- Establish a process that provides for the identification, management, analysis, escalation, and resolution of valuation related complaints across all relevant lines of business, from various channels and sources (such as letters, phone calls, in person, regulators, third-party service providers, emails, and social media).
- Establish a process to inform consumers how to raise concerns about the valuation sufficiently early enough in the underwriting process for any errors or issues to be resolved before a final credit decision is made. This may include suggesting to consumers the type of information they may provide when communicating with

the financial institution about potential valuation deficiencies.

- Identify stakeholders and clearly outline each business unit's roles and responsibilities for processing an ROV request (e.g., loan origination, processing, underwriting, collateral valuation, compliance, customer experience or complaints).
- Establish risk-based ROV systems that route the request to the appropriate business unit (e.g., ROV requests that allege discrimination could be routed to the appropriate compliance, legal, and appraisal review staff that have the requisite skills and authority to research and resolve the request).
- Establish standardized processes to increase the consistency of consideration of requests for ROVs:
    - Use clear, plain language in notices to consumers of how they may request the ROV;
    - Use clear, plain language in ROV policies that provide a consistent process for the consumer, appraiser, and internal stakeholders;
    - Establish guidelines for the information the financial institution may need to initiate the ROV process;
    - Establish timelines in the complaint or ROV process for when milestones need to be achieved;
    - Establish guidelines for when a second appraisal could be ordered and who assumes the cost; and
    - Establish protocols for communicating the status of the complaint or ROV and results to consumers.
- Ensure relevant lending and valuation related staff, inclusive of third parties (e.g.,

appraisal management companies, fee-appraisers, mortgage brokers, and mortgage servicers) are trained to identify deficiencies (inclusive of prohibited discriminatory practices) through the valuation review process.

VI. CFPB Signing Authority

The Director of the Consumer Financial Protection Bureau, Rohit Chopra, having reviewed and approved this document, is delegating the authority to electronically sign this document to Laura Galban, CFPB Federal Register Liaison, for purposes of publication in the Federal Register.

Michael J. Hsu,
Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,
Secretary of the Board.

Federal Deposit Insurance Corporation.
Dated at Washington, DC, on June 1, 2023.
James P. Sheesley,
Assistant Executive Secretary.

Melane Conyers-Ausbrooks,
Secretary of the Board, National Credit Union Administration.

Laura Galban,
Federal Register Liaison, Consumer Financial Protection Bureau.