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Federal Banking Agencies Publish Reconsideration of Value Guidance*

Recently, a number of new laws, rules, and guidance have been issued that are intended to address unfair bias in the real estate appraisal process. Most recently, on July 26, 2024, the CFPB, OCC, FRB, FDIC, and NCUA jointly issued final guidance addressing reconsiderations of value (ROVs) for residential real estate transactions (Interagency ROV Guidance or Guidance). 89 FR 60549. The Guidance applies to real estate-related financial transactions secured by a single 1-to-4 family residential property. The Guidance advises on policies and procedures that financial institutions may implement to help identify, address, and mitigate the risk of discrimination impacting residential real estate appraisals. The Guidance became final on July 26, 2024, upon its publication in the Federal Register.

The Interagency ROV Guidance defines a ROV as a request from a financial institution to an appraiser or other valuation report preparer to reassess the value of residential real estate. Pursuant to the Guidance, financial institutions will develop ROV policies and procedures that, among other things, outline how and when ROVs should be requested, particularly following an institution's internal valuation review processes or instances where consumer-provided information raises questions regarding the validity of an appraisal or valuation.

The Guidance provides institutions with some autonomy to create ROV policies and procedures that are tailored to meet an institution's specific risk profile. However, the Interagency ROV Guidance encourages institutions to consider the following criteria in forming ROV policies and procedures:

- Consideration of ROVs as a possible resolution for consumer complaints or inquiries related to residential property valuations.
- Consideration of whether the processes the institution selects for borrowers to request ROVs are simple and do not create unreasonable barriers to the borrower requesting an ROV.
- Implementing processes related to identifying, managing, analyzing, escalating, and resolving valuation-related complaints or inquiries across all relevant lines of business (including communications to the institution via letters, phone calls, in person, regulators, third-party service providers, emails, and social media).

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- Implementing processes through which the institution informs consumers how to question a valuation as early in the underwriting process as possible for any errors or issues to be resolved before a final credit decision is made.
- Identifying each business unit's roles and responsibilities for processing an ROV request (such as identifying the tasks that must be completed by loan origination, processing, underwriting, collateral valuation, compliance, customer service staff, or via complaints).
- Creating risk-based ROV systems that route ROV requests to the applicable business unit.
- Creating standardized processes to increase the consistency of consideration of requests for ROVs involving the following considerations:
 - Use of clear, plain language in notices to consumers outlining how they may request the ROV;
 - Use of clear, plain language in ROV policies that provide a consistent process for the consumer, appraiser, and internal stakeholders;
 - Establishing criteria for the information the institution needs to initiate the ROV process;
 - Creating timelines in the complaint or ROV processes for when deadlines need to be met;
 - Creating guidelines for when a second appraisal could be ordered and who assumes the cost (note the FHA and FHFA policies discussed below require the lender to assume the ROV costs);
 - Creating standards for communicating the status of the complaint or ROV and the lender's determination to consumers; and
 - Verifying that applicable lending and valuation-related staff, including third parties (such as appraisal management companies, fee-appraisers, mortgage brokers, and mortgage servicers), receive deficiency identification training through the valuation review process.

The agencies' ROV guidance follows HUD's and FHFA's recent publication of new ROV policies. In May 2024, HUD published Mortgagee Letter 2024-07, which applies the new ROV policies to real estate-related financial transactions that are secured by a single 1-to-4 family residential property for FHA case numbers assigned on or after September 2, 2024. HUD's new ROV policies, which have been published in Single Family Housing Policy Handbook 4000.1 become effective September 2, 2024. These policies will require lenders to disclose to borrowers that they may request a ROV. Lenders must provide borrowers with instructions detailing the ROV request process, including the information that will be required from the borrower and the expected processing times. The lender must provide the borrower with the ROV disclosure twice – once at the time of application and then again with the appraisal. HUD's new ROV policies also require lenders to develop ROV policies and procedures that, among other things, address the following topics: (1) underwriter training on identifying potential discrimination or bias in appraisals; (2) processes for handling borrowers' ROV requests; (3) lender ROV quality control procedures; and (4) procedures for ROV communications with appraisers.

Also in May 2024, the FHFA published ROV updates that were incorporated into the Fannie and Freddie selling guides. The FHFA's ROV updates are similar to the FHA's recently-developed ROV policies.

A comprehensive discussion of the recent Interagency ROV Guidance, as well as the FHA and FHFA ROV publications, will take place at the BCG webinar on August 29th, titled *Fair Appraisals: Compliance Considerations and Recent Developments*. As part of that presentation, BCG will provide generic ROV disclosure templates that institutions can use to develop their own ROV customer-facing forms. Information on how to register for the webinar will be distributed soon.

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