

Banking and Finance Law Daily Wrap Up, MORTGAGES—Agencies issue proposed guidance on handling ‘reconsideration of value’ requests, (Jun. 9, 2023)

Banking and Finance Law Daily Wrap Up

[Click to open document in a browser](#)

By Tom Leithauser

Proposed guidance aims to reduce industry uncertainty over handling and resolution of “reconsideration of value” requests for real estate loans.

The [Federal Deposit Insurance Corporation](#), the Federal Reserve Board, the National Credit Union Administration, the [Office of the Comptroller of the Currency](#), and the Consumer Financial Protection Bureau have issued [proposed guidance](#) to help lenders establish lawful reconsideration of value (ROV) procedures. “Collateral valuations, including appraisals, are important to the integrity of the residential real estate lending process,” according to the guidance, titled “Interagency Guidance on Reconsiderations of Value of Residential Real Estate.” Comments on the proposed guidance will be due within 60 days of its publication in the *Federal Register*.

“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,” it explains.

It notes that 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.”

“Valuations are important to the integrity of the residential real estate lending process. Deficient valuations, including those that contain evidence of discrimination, can keep individuals, families, and neighborhoods from building wealth through homeownership, and may pose risks to an institution’s financial condition and operations,” according to a financial institution letter issued by the FDIC.

“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,” the guidance states.

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 guidance cites several laws applicable to ROVs, including the Equal Credit Opportunity Act, the Fair Housing Act, the Federal Trade Commission Act, the Consumer Financial Protection Act, the Truth in Lending Act, and the Financial Institutions Reform, Recovery, and Enforcement Act.

It notes that ROVs can be initiated by the lender itself or following complaints from borrowers. “Financial institutions can capture consumer feedback regarding potential valuation deficiencies through existing complaint resolution processes,” it states.

“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,” it adds.

The guidance recommends, among other things, that lenders take the following steps regarding 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.

The guidance is part of a larger [effort](#) by the Biden administration to address racial bias in home lending through its Interagency Task Force on Property Appraisal and Valuation Equity (see [Banking and Finance Law Daily](#), March 23, 2023).

RegulatoryActivity: BankingOperations CFPB CommunityDevelopment ESGNews EqualCreditOpportunity GCNNews Loans Mortgages FederalReserveSystem