



## LEGAL ALERT

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### **Federal Interagency Guidance for Financial Institutions: Policies and Procedures for Reconsiderations of Value of Residential Real Estate**

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The 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 (OCC) have requested public comment on proposed guidance that outlines examples of policies and procedures for risk-based reconsiderations of value (ROVs) for residential real property. When final, the guidance will apply to financial institutions and credit unions regulated by the Board, FDIC, NCUA or OCC.

Although the guidance is proposed, it provides insight into standards the agencies will apply in considering whether the collateral valuation used to make a credit decision is credible. The agencies note that deficiencies in value (1) may be identified from multiple sources including information provided by the applicant or borrower; and (2) may arise from prohibited discrimination; errors or omissions; or valuation methods, assumptions, data sources, or conclusions that may be unreasonable, unsupported, unrealistic, or inappropriate.

Comments on the proposed guidance are due within 60 days from the date the guidance is published in the Federal Register.

#### **What is an ROV?**

Simply put, an ROV is the request by a financial institution that an appraiser take a second look at the valuation of a property because potential deficiencies may affect the estimated value conclusion.

#### **Why are ROVs important?**

The agencies emphasize that "credible collateral valuations, including appraisals, are essential to the integrity of the residential real estate lending process." Deficient valuations can cause problems for both consumers and financial institutions. For consumers, a flawed valuation can keep individuals and families from purchasing a home and building wealth with that home. It may also increase the risk of default. For financial institutions, a deficient valuation can lead to loan losses, regulatory penalties, civil lawsuits, and other financial and reputational damage.

The proposed guidance also discusses the consumer protection laws that impose a regulatory framework applicable to financial institutions when making residential real estate loans. The regulations require appraisals and value determinations to be independent and non-discriminatory. Even when a third party prepares valuations used in a credit decision, the lender still bears responsibility for compliance.

## What does the guidance suggest as best practices for financial institutions?

The guidance suggests several actions for financial institutions to mitigate the risk of deficient collateral valuations. These include:

- Considering whether any information or other process requirements related to a consumer's request to initiate an ROV create unreasonable barriers or discourage consumers from requesting an ROV.
- Establishing a comprehensive complaint resolution process 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).
- Establishing risk-based ROV systems that route the request to the appropriate business units in the financial institution.
- Using clear, plain language in notices to consumers of how they may request the ROV;
- Using clear, plain language in ROV policies that provide a consistent process for the consumer, appraiser, and internal stakeholders.
- Establishing guidelines for when a second appraisal could be ordered and who assumes the cost.
- Establishing protocols for communicating the status of the complaint or ROV and results to consumers.
- Ensuring training of appropriate staff and third party providers on identifying deficiencies (including prohibited discriminatory practices) through the valuation review process.

If you are a consumer or a financial institution seeking additional guidance on appraisal compliance or ROVs and how they may affect you, please feel free to contact Bousquet Holstein PLLC to discuss your questions.



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