

September 18, 2023

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Comment Intake—Interagency ROV
Consumer Financial Protection Bureau
c/o Legal Division Docket Manager
1700 G Street NW
Washington, DC 20552

**Re: Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations;
Docket ID OCC-2023-2007; Docket No. OP-1809; RIN 3064-ZA36; Docket No. NCUA-2023-0061;
Docket No. CFPB-2023-0033**

To Whom It May Concern:

The Housing Policy Council¹ (“HPC”) appreciates the opportunity to comment on the proposed Interagency Guidance on Reconsiderations of Value (“ROVs”) of Residential Real Estate Valuations (“Proposal” or “Guidance”).² HPC has previously requested³ that the members of the property Appraisal Valuation Equity (PAVE) Task Force and the GSEs develop a uniform ROV process for residential appraisals. We view this interagency guidance as a complementary action and will therefore be further requesting that PAVE and the GSEs continue to pursue a ROV policy consistent with this Guidance.

As discussed in more detail below, HPC offers the following comments on the Proposed Guidance:

- (1) HPC appreciates the Agencies⁴ presentation of various types of ROV practices, policies, and procedures that could be potentially adopted, but it may also be useful for the regulators to emphasize that a request for reconsideration does not obligate the financial institution to return

¹ The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and servicers; mortgage, hazard, and title insurers; and technology and data companies. Our interest is in the safety and soundness of the housing finance system, the equitable and consistent regulatory treatment of all market participants, and the promotion of lending practices that create sustainable homeownership opportunities in support of vibrant communities and long-term wealth building for families. For more information, visit www.housingpolicycouncil.org.

² Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations, 88 Fed. Reg. 47071 (July 21, 2023).

³ Joint trade [letter](#) to Agencies on need for a Uniform Consideration of Value Process on May 30, 2023.

⁴ The OCC, Federal Reserve Board, FDIC, NCUA and CFPB.

to the original appraiser and that other methods to address concerns and resolve issues may be more effective;

- (2) Financial institutions should establish clear and transparent processes for ROVs; and
- (3) Additional coordination and collaboration among the Agencies and GSEs is necessary.

I. HPC requests explicit recognition that alternative methods, in lieu of an ROV, may provide a more objective and transparent solution to a borrower's concerns.

A comprehensive ROV process is a valuable means for financial institutions and borrowers to remedy informational and/or methodological errors in an appraisal report. HPC supports the Agencies' efforts to provide guidelines and best practices for ROV policies and procedures.

Any influence of racial – or any other protected class- bias on real estate valuations is inexcusable and impermissible. We are concerned, however, that ROVs alone, as currently deployed, may not be the optimal mechanism for addressing allegations of discriminatory behavior. The Guidance alludes to the alternative approaches a financial institution may use to address requests for reconsideration, but we believe a more explicit recognition of the challenges with the existing method is valuable.

To be clear, requiring a consumer to seek redress from the person they believe discriminated against them seems, on its own, unlikely to lead to a positive resolution. Such a process may in fact deter individuals from using the ROV process, an outcome that would be inconsistent with the Agencies' intent. The Agencies could more explicitly acknowledge this in the Guidance. When bias is alleged, we recommend that the Guidance recognize the challenges and shortcomings associated with a sole reliance on the original appraisal and supports the idea that financial institutions should consider the use of a variety of tools to address bias allegations. These methods should be tailored to the organization's size and scope of lending activities (for example, a formal complaint process, an appeal, an outside contractor review, or some other type of independent review). Such practices could include the use of automated valuation models ("AVMs") or other data-rich tools. The Guidance should make clear that use of these tools is an acceptable and objective means to arbitrate whether an appraisal has a non-credible value and/or if there are meaningful deficiencies that validate the need for a revised or second appraisal. Accusations of bias should trigger a separate risk management process, rather than asking the appraiser accused of discrimination to conduct an impartial review.

We do believe that ROVs can be a valuable means to measure trends for accusations of bias. Financial institutions should be tracking and trending ROVs for such detection, as highlighted in the Guidance.

II. Financial institutions should have clear and transparent processes for ROVs.

HPC agrees that creditors should clearly communicate to consumers the requirements and expected outcomes from a reconsideration request. As the Agencies acknowledge in this proposal, such communication could include the types of information the borrower should submit to the lender to initiate the reconsideration and the expected milestones and timelines, potential costs (if any) and protocols for communicating results.

That said, some of the components of the reconsideration process may soon be dictated by the GSEs and government insurers (such as FHA, VA, and USDA). It is our hope that these organizations will

establish a uniform process that provides consistent treatment to all borrowers, regardless of lender, loan type, or product. Therefore, while we appreciate that this proposed Guidance serves as a regulatory framework for the more specific and detailed requirements that the GSEs and government insurers may soon announce, we ask that the Agencies encourage those entities to collaborate in their reconsideration work and to set up a standardized process.

HPC also recommends that the GSEs and government insurers develop consistent or shared materials that provide borrowers with clear, actionable information about when and how to appropriately raise concerns about the accuracy of the data in an appraisal and the opinion of value it contains. Such consumer information would describe the circumstances in which the reconsideration process may be most appropriate, the information required to initiate the process, the steps involved in the reconsideration process, and how the reconsideration process is typically resolved. The GSE and government insurers efforts should provide consumers with the awareness and ability to request a reconsideration yet discourage inappropriate or frivolous requests for reconsideration.

As such, we suggest that the GSEs and government insurers develop a model borrower application/checklist to standardize the process for borrowers to request an appraisal reconsideration. An application/checklist would guide the borrower to produce the information necessary to provide the basis for the request. This current best practice allows lenders to play an important quality control role, reviewing and confirming that all borrower requests are complete and include the appropriate basis for a reconsideration request. As mentioned above, as part of the quality control process, the lender should exercise discretion to determine if a reconsideration process is necessary and appropriate based on the information provided by the buyer, which could include factors such as a borrower's responsiveness to clarifying questions and the number of reconsideration requests made by the borrower. Under a standardized process, all borrowers would be – indeed, must be - treated the same, regardless of their lender, loan type or product. This would lead to increased consumer awareness and transparency.

III. Additional coordination and collaboration among the Federal Agencies and GSEs are warranted.

As noted above, HPC has advocated for the PAVE Task Force members and GSEs taking a coordinated and collaborative approach in establishing standards for ROVs. For example, in 2021, HPC submitted recommendations to the PAVE Task Force that included establishing industry-wide standards for the ROV process.⁵ In a May 2023 letter to the PAVE Task Force and the GSEs, HPC encouraged the development of a uniform ROV process for residential appraisals.⁶ We commended the Federal Housing Administration (“FHA”) for taking the first step in this area by issuing a draft Mortgagee Letter, but expressed concerns that the benefits of an ROV process are minimized without interagency cooperation in the design and implementation of a standard ROV approach.⁷

We acknowledge and appreciate that the proposed Guidance is sufficiently general to allow investors and agencies to establish and oversee their own specific requirements. That said, we believe the better federal practice would be for the Agencies to align with the work of the GSEs, FHFA, FHA, VA, and USDA, to promote aligned policy objectives and avoid potential operational conflicts for lenders. It is

⁵ Recommendation [Letter](#) to Task Force on Property Appraisal and Valuation Equity on November 3, 2021.

⁶ Id at 3.

⁷ HPC [Letter](#) to FHA on Appraisal Review on February 2, 2023.

appropriate that the Guidance does not specify, for example, the following, as these are best left for individual agency/investor/guarantor guides: (i) the number of ROV requests a borrower or financial institution can make; (ii) the number of alternative comparative sales to be reviewed in relation to the ROV request; and (iii) the amount an appraiser or lender can charge for an ROV request and which party is responsible for paying the fee.

Thank you for the opportunity to comment on the Proposal. HPC and our members are ready and willing to work with the Agencies on implementation of the final Guidance. Should you have any questions or wish to discuss this further, please contact Matthew Douglas at (202) 589-1924 and matt.douglas@housingpolicycouncil.org.

Yours truly,



Edward J. DeMarco
President
Housing Policy Council