DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. OCC- 2023-0002]

RIN 1557-AD87

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-1807]

RIN 7100-AG60

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

RIN 3064-AE68

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 722 and 741

[Docket No. NCUA- 2023-0019]

RIN 3133-AE23

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1026

[Docket No. CFPB- 2023-0025]

RIN 3170-AA57

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1222

RIN 2590-AA62

Quality Control Standards for Automated Valuation Models

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

ACTION: Final rule.

SUMMARY: The OCC, Board, FDIC, NCUA, CFPB, and FHFA (collectively, the agencies) are adopting a final rule to implement the quality control standards mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for the use of automated valuation models (AVMs) by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer's principal dwelling. Under the final rule, institutions that engage in certain credit decisions or securitization determinations must adopt policies, practices,

procedures, and control systems to ensure that AVMs used in these transactions to determine the value of mortgage collateral adhere to quality control standards designed to ensure a high level of confidence in the estimates produced by AVMs; protect against the manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and comply with applicable nondiscrimination laws.

DATES: This final rule is effective the first day of the calendar quarter following **[INSERT DATE 12 MONTHS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT:

OCC: G. Kevin Lawton, Appraiser (Real Estate Specialist), (202) 649-7152; Mitchell Plave, Special Counsel, 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: Andrew Willis, Manager, Policy Development Section, (202) 912-4323; Matthew McQueeney, Senior Financial Institution Policy Analyst, (202) 452-2942; Devyn Jeffereis, Senior Financial Institution Policy Analyst, (202) 365-2467, Division of Supervision and Regulation; Jay Schwarz, Assistant General Counsel, (202) 452-2970; Matthew Suntag, Senior Counsel, (202) 452-3694; Derald Seid, Senior Counsel, (202) 452-2246; Trevor Feigleson, Senior Counsel, (202) 452-3274, David Imhoff, Senior

Attorney (202) 452-2249, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. 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.

FDIC: Patrick J. Mancoske, Senior Examination Specialist, Division of Risk Management Supervision, (202) 898-7032; Navid K. Choudhury, Counsel, Legal Division, (202) 898-6526; Mark Mellon, Counsel, Legal Division, (202) 898-3884; Lauren A. Whitaker, Counsel, Legal Division, (202) 898-3872; or Stuart Hoff, Senior Policy Analyst, Division of Depositor and Consumer Protection, (202) 898-3852; or supervision@fdic.gov, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, TDD users may contact (202) 925-4618.

NCUA: *Policy and Accounting*: Victoria Nahrwold, Associate Director; Naghi H. Khaled, Director of Credit Markets; or Simon Hermann, Senior Credit Specialist; Office of Examination and Insurance at (703) 518-6360; *Legal:* Ian Marenna, Associate General Counsel for Regulations and Legislation; John H. Brolin, Senior Staff Attorney; or Ariel Pereira, Senior Staff Attorney; Office of General Counsel at (703) 518-6540, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314.

CFPB: George Karithanom, Regulatory Implementation & Guidance Program Analyst, Office of Regulations at (202) 435-7700 or at

https://reginquiries.consumerfinance.gov/. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

FHFA: Julie Giesbrecht, Senior Policy Analyst, Office of Housing and Regulatory Policy, (202) 557-9866, Julie.Giesbrecht@fhfa.gov; or Karen Heidel, Assistant General Counsel, Office of General Counsel, (202) 738-7753, Karen.Heidel@fhfa.gov. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1473(q) of the Dodd-Frank Act amended title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA or title XI)[1] to add a new section 1125 relating to quality control standards for AVMs used in valuing real estate collateral securing mortgage loans (section 1125).[2] In June 2023, the agencies invited comment on a notice of proposed rulemaking (proposal or proposed rule) to implement these quality control standards.[3] The agencies received approximately 50 comments concerning the proposed rule.

The term "automated valuation model" is commonly used to describe computer programs that estimate a property's value and are used for a variety of purposes, including loan underwriting and portfolio monitoring.[4] Section 1125 defines an AVM as

---

[1] 12 U.S.C. 3331 *et seq.*

[2] Pub. L. 111–203, 124 Stat. 1376, 2198 (2010), *codified at* 12 U.S.C. 3354.

[3] 88 FR 40638 (June 21, 2023).

[4] *See Interagency Appraisal and Evaluation Guidelines*, 75 FR 77450, 77468 (Dec. 10, 2010).

"any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling."[5]

Section 1125 directs the agencies to promulgate regulations to implement quality control standards regarding AVMs.[6] Section 1125 requires that AVMs, as defined in the statute, adhere to quality control standards designed to "(1) ensure a high level of confidence in the estimates produced by automated valuation models; (2) protect against the manipulation of data; (3) seek to avoid conflicts of interest; (4) require random sample testing and reviews; and (5) account for any other such factor that the agencies. . . determine to be appropriate."[7] As required by section 1125, the agencies consulted with the staff of the Appraisal Subcommittee and the Appraisal Standards Board of the Appraisal Foundation as part of promulgating this rule.[8]

Driven in part by advances in database and modeling technology and the availability of larger property datasets, the mortgage industry has begun to use AVMs with increasing frequency as part of the real estate valuation process. For example, the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Government Sponsored Enterprises or GSEs) use proprietary AVMs in their collateral valuation processes.

---

[5] 12 U.S.C. 3354(d). This preamble uses the terms "worth" and "value" interchangeably when discussing mortgage collateral.
[6] 12 U.S.C. 3354(b).
[7] 12 U.S.C. 3354(a).
[8] *See* 12 U.S.C. 3354(b).

While advances in AVM technology and data availability have the potential to contribute to lower costs and shorten turnaround times in the performance of property valuations, it is important that institutions using such tools take appropriate steps, as required by section 1125, to ensure the credibility and integrity of the valuations produced by AVMs.

Existing Guidance Relating to the Use of AVMs and Enforcement of the Final Rule

Since 2010, the OCC, Board, FDIC, and NCUA have provided supervisory guidance on the use of AVMs by the institutions they regulate in Appendix B to the Interagency Appraisal and Evaluation Guidelines (Appraisal Guidelines).[9] The Appraisal Guidelines recognize that an institution may use a variety of analytical methods and technological tools in developing real estate valuations, provided the institution can demonstrate that the valuation method is consistent with safe and sound banking practices. The Appraisal Guidelines recognize that the establishment of policies and procedures governing the selection, use, and validation of AVMs, including steps to ensure the accuracy, reliability, and independence of an AVM, is a sound banking practice.[10]

In addition to Appendix B of the Appraisal Guidelines, the OCC, Board, and FDIC have issued guidance on model risk management practices (Model Risk Management Guidance) that provides comprehensive supervisory guidance on validation

[9] *See supra* note 4. The Appraisal Guidelines were adopted after notice and comment.
[10] *Id.*

and testing of models.[11] While the NCUA is not a party to the Model Risk Management Guidance, the NCUA monitors the model risk management efforts of federally insured credit unions through its supervisory approach by confirming that the governance and controls over AVMs are appropriate based on the size and complexity of the transactions, the risk the transactions pose to the credit union, and the capabilities and resources of the credit union.

The CFPB and FHFA are also not parties to the Appraisal Guidelines or the Model Risk Management Guidance. The FHFA has separately issued model risk management guidance that provides the FHFA's supervisory expectations for its regulated entities in the development, validation, and use of models.[12]

The OCC, Board, FDIC, NCUA, CFPB, and FHFA have also provided guidance on managing the risk inherent in the use of third-party service providers, such as outside entities that provide AVMs and AVM services.[13] For example, under the guidance

---

[11] *See Comptroller's Handbook, Model Risk Management*, OCC Bulletin 2021-39 (Aug. 18, 2021); *Supervisory Guidance on Model Risk Management*, OCC Bulletin 2011-12 (Apr. 4, 2011); *Guidance on Model Risk Management,* Federal Reserve Board SR Letter 11-7 (Apr. 4, 2011); and *Adoption of Supervisory Guidance on Model Risk Management*, FDIC FIL-22-2017 (June 7, 2017).

[12] *See Supplement Guidance to Advisory Bulletin 2013-07 – Model Risk Management Guidance 2013-07*, FHFA Advisory Bulletin 2022-03 (Dec. 21, 2022) and *Model Risk Management Guidance*, FHFA Advisory Bulletin 2013-07 (Nov. 20, 2013).

[13] *See Third-Party Relationships: Interagency Guidance on Risk Management*, OCC Bulletin 2023-17 (June 6, 2023); *Interagency Guidance on Third-Party Relationships: Risk Management,* Federal Reserve Board SR Letter 23-4 (June 7, 2023); *Interagency Guidance on Third-Party Relationships: Risk Management,* FDIC FIL 29-2023 (June 6, 2023); *Guidance on Managing Outsourcing Risk*, Federal Reserve Board SR Letter 13-9 (Dec. 3, 2013); *Evaluating Third Party Relationships,* NCUA Supervisory Letter 07-01 (Oct. 2007); *Due Diligence Over Third Party Service Providers*, NCUA Letter 01-CU-20 (Nov. 2001); *Oversight of Third-Party Provider Relationships*, FHFA Advisory Bulletin 2018-08 (Sept. 28, 2018); CFPB, *Compliance Bulletin and Policy Guidance; 2016–02, Service Providers* (Oct. 31, 2016); and CFPB, *Examination Procedures—Compliance Management Review* (Aug. 2017). *See also, Third-Party Relationships: A Guide for Community Banks,* OCC Bulletin 2024-11 (May 3, 2024); *Third-Party Risk*

issued by the Federal banking agencies, regardless of whether activities are performed internally or using a third party, banking organizations are required to operate in a safe and sound manner and in compliance with applicable laws and regulations. A banking organization's use of third parties does not diminish its responsibility to meet these requirements to the same extent as if its activities were performed by the banking organization in-house. To operate in a safe and sound manner, a banking organization establishes risk management practices to effectively manage the risks arising from its activities, including from third-party relationships. These guidance documents address the characteristics, governance, and operational effectiveness of a banking organization's risk management program for outsourced activities.

Institutions that are not regulated by the agency or agencies providing the guidance may still look to the guidance for assistance with compliance. The OCC, FDIC, Federal Reserve, NCUA, CFPB, FHFA, FTC, and State attorneys general each have an important role in enforcing this rule as to their respective regulated entities or covered market participants.[14]

II. Brief Summary of the Proposed Rule, Comments, and the Final Rule

The proposed rule would have required that mortgage originators and secondary market issuers adopt policies, practices, procedures, and control systems to ensure that AVMs used in certain credit decisions or covered securitization determinations (as

---

Management: A Guide for Community Banks, Federal Reserve Board SR Letter 24-2 (May 7, 2024); *Third-Party Risk Management, A Guide for Community Banks,* FDIC FIL-29-2024 (May 3, 2024).

[14] *See* 12 U.S.C. 3354(c); 12 U.S.C. 4631(a)(1).

defined below) adhere to quality control standards designed to 1) ensure a high level of confidence in the estimates produced; 2) protect against the manipulation of data; 3) avoid conflicts of interest; 4) require random sample testing and reviews; and 5) comply with applicable nondiscrimination laws. The proposed rule would not have set specific requirements for how institutions are to structure these policies, practices, procedures, and control systems. The proposed rule stated that this approach would provide institutions with the flexibility to set quality controls for AVMs as appropriate based on the size, complexity, and risk profile of the institution and the transactions for which they would use AVMs covered by the proposed rule. The proposed rule further stated that, as modeling technology continues to evolve, this flexible approach would allow institutions to refine their policies, practices, procedures, and control systems as appropriate and that the agencies' existing guidance related to AVMs would remain applicable.

The agencies received approximately 50 comments on the proposed rule to implement the quality control standards for AVMs in title XI, including comments from financial institutions, financial institution trade associations, real estate trade associations, mortgage insurance trade associations, appraiser trade associations, nonprofit advocacy organizations, AVM developers, and appraisers. Most commenters recognized that quality control standards for AVMs are required by title XI and are important to the safety and soundness of mortgage lending and securitizations involving mortgages. Most commenters also expressed support for the flexibility in the proposed rule for institutions to set quality controls for AVMs as appropriate based on the size, complexity, and risk

that existing nondiscrimination laws apply to appraisals and AVMs and that institutions have a preexisting obligation to comply with all Federal laws, including Federal nondiscrimination laws. Institutions will have flexibility to adopt approaches to implement this quality control factor in ways that reflect the risks and complexities of their individual business models. In addition, there is existing guidance on fair lending considerations to inform compliance with the nondiscrimination factor.[15]

Regarding commenters' suggestion to apply the rule to AVM developers and vendors, the agencies note that, while section 1125 applies to mortgage originators and secondary market issuers, financial institutions should be able to work with AVM developers and vendors to assist them with their compliance obligations under the rule, as they do with other third-party vendors in order to comply with relevant regulatory requirements. The agencies recognize that one or more SSOs and third-party AVM testing entities could be beneficial to effective compliance with the AVM rule. As long as financial institutions meet the obligations provided in the final rule, they are free to work with third parties to assist them with their compliance obligations.

---

[15] *See, e.g.*, Interagency Task Force on Fair Lending, *Policy Statement on Discrimination in Lending*, 59 FR 18266 (Apr. 15, 1994), *available at https://www.govinfo.gov/content/pkg/FR-1994-04-15/html/94-9214.htm;* Interagency Fair Lending Examination Procedures (Aug. 2009), *available at https://www.ffiec.gov/PDF/fairlend.pdf;* CFPB, *Examination Procedures - ECOA* (Oct. 2015), *available at https://files.consumerfinance.gov/f/documents/201510_cfpb_ecoa-narrative-and-procedures.pdf;* Federal Housing Finance Agency, *Policy Statement on Fair Lending*, 86 FR 36199 (July 9, 2021), *available at https://www.govinfo.gov/content/pkg/FR-2021-07-09/pdf/2021-14438.pdf.*

III. Discussion of the Proposed Rule, Comments Received, and the Final Rule

The following is a detailed discussion of the proposed rule, the comments the agencies received, the responses to the comments, and the final rule.

A. *Scope of the rule*

1. *AVMs used in connection with making credit decisions*

The proposed rule would have applied to AVMs used in connection with making a credit decision. The proposed rule would have defined "credit decision," in part, to include a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage. The proposed rule would have expressly excluded the use of AVMs in monitoring the quality or performance of mortgages or mortgage-backed securities. The use of AVMs solely to monitor a creditor's mortgage portfolio would not have been a credit decision under the proposed rule because the lending institution has already made the credit decision. The scope of the proposed rule included, for example, decisions regarding originating a mortgage; modifying the terms of an existing loan; and renewing, increasing, or terminating a home equity line of credit (HELOC). The proposed rule used the term "credit decision" to help clarify that the proposed rule would have covered these various types of decisions.

The proposal to limit the scope of the rule to credit decisions (or, as discussed below, covered securitization determinations) reflected the statutory definition of AVM, which focuses on the use of an AVM "by mortgage originators and secondary market issuers to *determine* the collateral worth of a mortgage secured by a consumer's principal

dwelling."[16] The proposed rule distinguished between using AVMs to determine the value of collateral securing a mortgage and using AVMs to monitor, verify, or validate a previous determination of value (*e.g.*, the proposed rule would not have covered a computerized tax assessment model used to verify the valuation made during the origination process).[17] The proposed rule focused on those aspects of mortgage and securitization transactions where the value of collateral is typically determined.

Most commenters expressed support for limiting the scope of the rule to AVMs used in connection with making credit decisions (or, as discussed below, covered securitization determinations) and excluding use of AVMs for portfolio monitoring, which does not involve credit decision-making. The commenters also stated that excluding portfolio monitoring would reduce some burdens and costs that may otherwise be passed on to borrowers. One commenter stated that these exclusions would permit lenders more certainty in using AVMs for purposes such as portfolio monitoring.

Some commenters argued that the rule should apply to the use of AVMs to value a consumer's principal dwelling for any purpose. For example, one commenter argued that the statutory definition of "automated valuation model" at section 1125 does not limit applicability only to AVMs used during underwriting.

The final rule limits the scope of the rule to credit decisions and, as discussed below, covered securitization determinations. This scope is consistent with the statutory

[16] 12 U.S.C. 3354(d) (emphasis added).

[17] Many secondary market transactions by regulated entities require an appraisal unless an appraisal consistent with regulatory standards was obtained at the time of origination. *See* 12 CFR 43.34(a)(8) (OCC); 12 CFR 225.63(a)(8) (Board); 12 CFR 323.3(a)(8) (FDIC); 12 CFR 722.3(a)(5) (NCUA).

language in section 1125, which focuses on determinations of value. The focus on determinations of value made in connection with credit decisions or covered securitization determinations, and the exclusion of AVM use for portfolio monitoring, will also reduce the compliance costs associated with a broader application of the quality control standards.

Loan modifications and other changes to existing loans. The proposed rule would have defined a credit decision broadly to include, among other things, a decision regarding whether and under what circumstances to modify or to make other changes to a mortgage. As a result, the proposed rule would have covered AVMs used to determine the value of an existing mortgage secured by a consumer's principal dwelling in conjunction with a decision to modify or change the terms of that mortgage when such decision is made by a "mortgage originator," "secondary market issuer," or servicer working on behalf of a mortgage originator or secondary market issuer. For example, the proposed rule would have covered AVMs used by a "mortgage originator" or "secondary market issuer," or servicer working on behalf of a mortgage originator or secondary market issuer to deny a loan modification or to confirm the value of collateral in response to a request to change or release collateral.

The agencies received several comments on this topic. Two commenters asked the agencies to clarify how the rule would apply to certain credit decisions. The first of these commenters expressed support for treating a decision to modify a loan as a credit decision because, like an initial credit decision, when a mortgage originator assesses

collateral value for a loan modification, the mortgage originator is assessing whether the value of the collateral is sufficient to support the decision to engage in the transaction. However, the commenter asked the agencies to strike the reference to "other changes" from the definition of "credit decision." The commenter believed that this change would reduce ambiguity regarding the type of conduct covered by the definition of credit decision. The other commenter suggested that the agencies make clear that assumptions are a credit event and would fall under the rule. This commenter added that the use of assumptions may rise in the future, so the market would benefit from that clarity.

As discussed further below, the agencies have considered these two comments, but do not find it necessary to provide any additional clarification regarding how the rule applies to credit decisions. Section 1125 of FIRREA defines an AVM as "any computerized model used by mortgage originators and secondary market issuers *to determine the collateral worth* of a mortgage secured by a consumer's principal dwelling."[18] As explained in the proposed rule, the agencies interpret the scope of section 1125 as covering the use of an AVM to make a credit decision, but not the use of an AVM to monitor, to verify, or to validate a prior determination of value. The proposed rule further provided that a "credit decision" is "a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision on whether to extend new or additional credit or change the credit limit on a line of credit." Striking the reference to "other changes" from the

[18] 12 U.S.C. 3354(d) (emphasis added).

definition of credit decision, as suggested by the first commenter, would be inconsistent with the agencies' interpretation of the scope of section 1125 because it would narrow the scope of the rule to apply only to origination, modification, and termination decisions. The agencies also find it unnecessary to clarify that assumptions are credit events that fall under the rule, as suggested by the second commenter, because the proposed definition of "credit decision" is broad enough to cover assumptions.

Several other commenters disagreed with applying the rule to AVMs used to modify or change the terms of an existing loan. One of these commenters suggested that covering loan modifications would present operational challenges and is unsupported by an articulated benefit to consumers. Another commenter stated that covering modifications could discourage the use of AVMs and push lenders to use appraisals for modifications, which are more costly and time-consuming. Two other commenters expressed concern that covering loan modifications could increase costs for borrowers already facing financial distress. One of these commenters further noted that covering loan modifications also could make the loss mitigation process take longer. Finally, another commenter stated that the proposal to include loan modifications should have minimal, if any, impact on the market because the majority of loan modifications do not require a valuation of the property. However, the commenter recommended that the rule align with the traditional practice described in the Truth in lending Act (TILA) of distinguishing the role of servicers from that of originators in cases where there is no new extension of credit. The commenter argued that, unless this rule's definition of credit

decision excludes loan modifications that are not a new extension of credit, the regulatory framework for this rule could be misapplied to other regulations.

The agencies have considered these comments and are adopting the final rule as proposed. AVMs are often used to determine the value of collateral in connection with loan modifications and other changes to mortgages. Further, the agencies continue to view quality control standards for AVMs used to make credit decisions relating to loan modifications and other changes to mortgages as important both to safety and soundness and to consumer protection. As discussed below, many institutions have already set up quality control systems for AVMs and have third-party risk management programs in place. For those institutions, existing quality control systems and third-party risk management programs should mitigate the burden of implementing additional quality control standards for AVMs used to modify or to change the terms of existing loans as well as any related costs passed on to consumers. In addition, the flexibility the rule provides to institutions to design policies, practices, procedures, and control systems to implement the quality control standards should reduce the burden of implementing additional quality control standards for AVMs used to modify or to change the terms of existing loans. This flexibility should reduce any related costs passed on to consumers.

Finally, the agencies considered the comment recommending that the rule align with the traditional practice described in TILA of distinguishing the role of servicers from that of mortgage originators in cases where there is no new extension of credit. However, the agencies decline to adopt changes to the proposed rule based on the

comment. Although, as discussed in detail in part III.C.7 of this **SUPPLEMENTARY INFORMATION**, the rule defines mortgage originator by adopting the full text of the TILA definition of the term with technical revisions, this rulemaking is being conducted pursuant to FIRREA and it is consistent with FIRREA for valuation requirements to apply to both new and existing extensions of credit. For example, under the appraisal regulations of the Federal banking agencies and NCUA, loan modifications that are real estate-related financial transactions must, in general, comply with appraisal requirements or obtain an evaluation (for entities regulated by the banking agencies) or a written estimate of market value (for credit unions) that is consistent with safe and sound banking practices. Therefore, it is consistent with the regulatory framework of FIRREA for the agencies to apply AVM requirements to transactions involving both new and existing credit.

Home equity line of credit (HELOC) reductions or suspensions. The proposed rule would have covered AVMs used in deciding whether or to what extent to reduce or suspend a HELOC. In the proposal, the agencies considered mortgage originators and secondary market issuers to be using AVMs in connection with making a credit decision when they use AVMs to decide whether or to what extent to reduce or suspend a HELOC.

The agencies received several comments on this topic. Two commenters generally supported applying the rule to HELOCs, while two commenters opposed this application. These commenters expressed the concern that the burden and expense of

compliance would outweigh the consumer protection and safety and soundness benefits. Another commenter requested further clarification regarding how the rule would apply when AVMs are used to make credit decisions relating to HELOC reductions and suspensions.

The agencies have considered these comments and are adopting the final rule as proposed. The agencies have determined that AVMs used to make credit decisions relating to HELOC reductions and suspensions are important both to safety and soundness and to consumer protection. As discussed below, many institutions have already set up quality control systems for AVMs and have third-party risk management programs in place. These existing quality control systems and third-party risk management programs should mitigate the burden and expense of implementing additional quality control standards for AVMs used to make credit decisions relating to HELOC reductions and suspensions as well as any related costs passed on to consumers. In addition, the flexibility provided to institutions under the final rule to design policies, practices, procedures, and control systems to implement the quality control standards should also reduce both the burden of implementing additional quality controls standards for AVMs used to make credit decisions relating to HELOC reductions and suspensions and any related costs passed on to consumers.

2. *AVMs used by secondary market issuers*

The language of section 1125 includes not only mortgage originators, but also secondary market issuers.[19] For this reason, the proposed rule would have extended to certain securitization activities, defined as "covered securitization determinations."

Appraisal waivers by secondary market issuers. The proposed rule defined "covered securitization determination" to include determinations regarding, among other things, whether to waive an appraisal requirement for a mortgage origination (appraisal waiver decisions).[20] Under the proposed rule, a secondary market issuer that uses AVMs in connection with making appraisal waiver decisions would have been required to have policies, practices, procedures, and control systems in place to ensure that the AVM supporting those appraisal waiver decisions adheres to the rule's quality control standards. In contrast, a mortgage originator that requests an appraisal waiver decision from a secondary market issuer would not have needed to ensure that the AVM used to support the waiver meets the rule's quality control standards. This treatment is because the secondary market issuer would be using the AVM to make the appraisal waiver decision in this context, not the mortgage originator. The proposal noted that when mortgage originators submit loans to GSEs for appraisal waiver decisions, the mortgage

[19] 12 U.S.C. 3354(d).

[20] On March 1, 2023, Fannie Mae began a transition in terminology away from "appraisal waivers" and to "value acceptance." As stated in the March 1 announcement, "value acceptance is being used in conjunction with the term 'appraisal waiver' to better reflect the actual process of using data and technology to accept the lender-provided value. We are moving away from implying that an appraisal is a default requirement." *See Fannie Mae Provides Updates Regarding Valuation Modernization | Fannie Mae.*

originators offer an estimated value of the property, but do not make a determination of value.

Both GSEs have appraisal waiver programs and are the predominant issuers of appraisal waivers in the current mortgage market.[21] To determine whether a loan qualifies for an appraisal waiver under any GSE program, a mortgage originator submits the loan casefile to the GSE's automated underwriting system with an estimated value of the property (for a refinance transaction) or the contract price (for a purchase transaction). The GSE then processes this information through its internal model(s), which may include use of an AVM, to determine the acceptability of the estimated value or the contract price for the property. If the GSE's analysis determines, among other eligibility parameters, that the estimated value or contract price meets its risk thresholds, the GSE offers the lender an appraisal waiver.[22]

In this example, when the GSEs use AVMs to determine whether the mortgage originator's estimated collateral value or the contract price meets acceptable thresholds for issuing an appraisal waiver offer, the GSEs would be making a "covered securitization determination" under the proposed rule. As a result, the proposed rule would have required the GSEs, as secondary market issuers, to maintain policies, practices, procedures, and control systems designed to ensure that their use of such

[21] *See* Fannie Mae, *Appraisal Waivers*, *available at https://singlefamily.fanniemae.com/originating-underwriting/appraisal-waivers*); Freddie Mac, *Automated Collateral Evaluation (ACE), available at https://sf.freddiemac.com/tools-learning/loan-advisor/our-solutions/ace-automated-collateral-evaluation*.
[22] *Id.*

AVMs adheres to the rule's quality control standards. On the other hand, the mortgage originator in this context would not be making a "covered securitization determination" under the proposed rule because the GSE would be using its AVM to make the appraisal waiver decision. As a result, the mortgage originator would not be responsible for ensuring that the GSEs' AVMs comply with the proposed rule's quality control standards.

Most commenters agreed that the GSEs make the valuation decision in connection with appraisal waivers and should be covered by the quality control standards in the appraisal waiver context. One commenter requested clarification in cases where AVMs are used to determine eligibility for appraisal waivers and recommended that the proposed regulatory text align with the description in the preamble. Another commenter supported an exception for AVMs used to determine whether a loan may be eligible for an appraisal waiver. Another commenter stated that the Equal Credit Opportunity Act (ECOA) requires creditors to provide consumers with a copy of any estimate of the value of a dwelling developed in connection with a creditor's decision to provide credit, including those values developed pursuant to a policy of a GSE or by an AVM, a broker price opinion, or other methodology or mechanism. The commenter further stated that the GSEs should be obligated to provide a consumer with any valuation on which the waiver is based.

Many commenters stated that it would be very difficult for lenders to conduct quality control of the GSEs' AVMs for reasons including that the GSEs have treated their

data, analytics, and testing as proprietary and have not shared information with the industry. Commenters also suggested that requiring lenders to conduct quality control of secondary market issuers' AVMs would be redundant because the secondary market issuers are already covered by the proposed rule and are better positioned to implement quality controls on their AVMs.

The agencies have determined that secondary market issuers are best positioned to conduct quality control for the AVMs they use in appraisal waiver decisions. This is because the secondary market issuer would be using the AVM to make the appraisal waiver decision in this context, not the mortgage originator. For this reason and after considering the comments, the final rule adopts the proposal to require the secondary market issuers, rather than mortgage originators, to implement the final rule for such AVM use.

Regarding providing to consumers copies of valuations used in connection with appraisal waiver decisions, the comment is on a matter outside the scope of this rulemaking. The agencies also note that the CFPB's rules in Regulation B implementing ECOA generally require creditors to provide applicants for first-lien loans on a dwelling with copies of written valuations developed in connection with an application.[23] "While some AVMs may use proprietary methods, the [2013 ECOA Valuations Final Rule] does not require the disclosure of these methods *per se*; rather, the [2013 ECOA Valuations

[23] *See* 12 CFR 1002.14; 78 FR 7216 (Jan. 31, 2013) (2013 ECOA Valuations Final Rule).

Final Rule] requires disclosure of the written valuations developed by the AVMs which are provided to the creditors."[24]

Other uses by secondary market issuers. As noted earlier, the language of section 1125 includes not only mortgage originators, but also secondary market issuers. Given that section 1125 refers to secondary market issuers and the primary business of secondary market issuers is to securitize mortgage loans and to sell those mortgage-backed securities to investors, the proposed rule would have covered AVMs used in securitization determinations. In the proposal, the agencies stated that covering AVMs used in securitizations could potentially protect the safety and soundness of institutions and could protect consumers and investors by reducing the risk that secondary market issuers would misvalue homes. For example, misvaluation by secondary market issuers could, in turn, incentivize mortgage originators to originate misvalued loans when making lending decisions.[25] Such misvaluations could pose a risk of insufficient collateral for financial institutions and secondary market participants and could limit consumers' refinancing and selling opportunities.[26]

---

[24] 78 FR at 7239. The 2013 ECOA Valuations Final Rule "does not apply to persons who are not creditors within the meaning of Regulation B, § 1002.2(l), and thus does not impose any obligation on a creditor to compel a third-party to provide a copy of such documentation to the applicant." *Id.* at 7239 n.89.

[25] For example, the 2008 financial crisis was precipitated in part by secondary market issuers that "lowered the credit quality standards of the mortgages they securitized" and mortgage originators that "took advantage of these lower credit quality securitization standards . . . to relax the underwriting discipline in the loans they issued" because, "[a]s long as they could resell a mortgage to the secondary market, they didn't care about its quality." Financial Crisis Inquiry Commission, *The Financial Crisis Inquiry Report*, at 425 (2011), *available at https://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf.*

[26] *See, e.g., Appraisals for Higher-Priced Mortgage Loans*, 78 FR 10367, 10418 (Feb. 13, 2013).

The proposed rule would have covered AVM usage when a secondary market issuer uses an AVM as part of a new or revised value determination in connection with a covered securitization determination. For example, the GSEs currently use the origination appraised value or the estimated value in appraisal waivers when issuing mortgage-backed securities (MBS). Hence, AVMs are not used by the GSEs to make a new or revised value determination in connection with MBS issuances. However, because the GSEs provide guarantees of timely payment of principal and interest on loans that are included in an MBS, they are obligated to purchase loans that are in default from MBS loan pools. The GSEs may modify such loans and subsequently re-securitize them as new MBS offerings. In these instances, the GSEs may use an AVM to estimate collateral value for investor transparency and disclosure. AVMs used in this manner by the GSEs would have been considered covered securitization determinations because there are new or revised value determinations. As discussed below, the proposed rule would have distinguished between secondary market issuers using AVMs to determine the value of collateral securing a mortgage versus using AVMs solely to review completed value determinations. For example, AVMs used solely to review appraisals obtained during mortgage origination would not have been covered by the proposed rule.

Most commenters supported the proposal to cover AVMs used by secondary market issuers in connection with covered securitization determinations. One commenter expressed general support for covering securitizations, stating that transparency in how AVMs are tested, measured, and applied would allow for better valuations and more

informed risk decision-making. Another commenter expressed support for consistent requirements across all activities by institutions, including secondary market issuers, stating that covering securitizations would alleviate the risk of an inconsistent approach to the development of quality control standards. Another commenter stated that it is important for the GSEs to be covered by the proposed rule because the GSEs 1) finance more than half of all purchase originations, and 2) the internalization of valuation risk by the GSEs poses a systemic threat to the housing finance system that could undermine investor confidence if questioned, especially if they exit conservatorship without an explicit Federal backstop.

One commenter echoed this point, stating that it is important to cover secondary market issuers because the issuers significantly influence how mortgage originators perform their underwriting. Similarly, another commenter stated it is important to cover the GSEs because they are two of the largest users and managers of AVMs in the market. The commenter stated further that there is additional potential for increased taxpayer risk if an AVM produces a property valuation that misprices or eliminates loan-level private mortgage insurance credit protection.

One commenter also suggested that, because AVMs are developed using data and models that reflect past and ongoing discrimination, the agencies should seek broad coverage of AVMs, including those used by the GSEs. Another commenter suggested that covering AVMs used by secondary market issuers also would promote financial stability. A number of commenters stated that Federal governmental support for the

collateral. The proposal stated that it also may be impractical for mortgage originators and secondary market issuers to adopt policies, procedures, practices, and control systems to ensure quality controls for AVMs used by the numerous independent appraisers with whom they work.

Under the appraisal regulations issued by the OCC, Board, FDIC, and NCUA, lenders regulated by those agencies are required to obtain "evaluations," or "written estimates of market value" under the NCUA's regulations, for certain transactions that fall within exceptions specified in the appraisal regulations.[29] Such evaluations must be consistent with safe and sound banking practices.

The proposed rule would have covered AVMs used in the process of preparing evaluations. This distinction between application of the rule to appraisals versus evaluations reflects the fact that USPAP standards and appraiser credentialing are not required for individuals who prepare evaluations. The proposed rule's coverage of AVMs used in the process of preparing evaluations also reflected the more extensive use of, and reliance on, AVMs within the evaluation function.

Most commenters agreed with the proposed exclusion of appraisals performed by licensed or certified appraisers from the scope of the rule. The commenters noted that appraisers are already subject to quality control standards and that exempting appraisers

---

[29] *See* 12 CFR 34.43(b) (OCC); 12 CFR 225.62(c) (Board); 12 CFR 323.3(b) (FDIC); and 12 CFR 722.3(d) (NCUA) (requiring that written estimates of market value be performed for transactions not requiring an appraisal and providing differing requirements for such estimates). *See also Appraisal Guidelines*, 75 FR at 77460 (discussing transactions that require evaluations under the appraisal rules and providing recommendations for evaluation development).

would avoid duplicative and burdensome regulation in an area where banks are already encountering shortages of appraisers. One commenter stated that the proposal's excluded uses do not involve credit decision making and suggested that excluding these uses will reduce burden and costs that may otherwise be passed on to consumers.

One commenter stated that, while appraisers often use an AVM or other tools to provide support and understanding for their opinions, appraisers are experts designated by Congress to protect public trust and they dedicate their lives to studying real estate data. Another commenter observed that appraisers do not use "lending grade" AVMs to develop full, traditional appraisals. The commenter stated that some appraisers may use AVMs to gauge a starting point for appraisals, but that appraisers have limited access to lending-grade AVMs. Another commenter noted that under USPAP, an AVM is a tool that appraisers may use for their work (such as for internal checks and balances), but not for the completion of an appraisal in determining the appraiser's opinion of value. The commenter expressed agreement with the statement in the preamble that an appraiser must make a valuation conclusion that is supportable independently and does not rely on an AVM to determine the value of the underlying collateral. One commenter stated that AVM use by appraisers is low and infrequent and noted that higher quality AVMs are often cost prohibitive for appraisers to use. The commenter suggested that imposing compliance costs on use of AVMs by appraisers would discourage the use of AVMs as a check for obvious errors.

complexity, and risk profile of the institution and the transactions for which they would use AVMs covered by the rule. One commenter stated that AVM models will continue to grow and evolve, making the flexible approach appropriate in order to allow institutions to make refinements as technology changes. The commenter also stated that the flexible approach would reduce regulatory burden and that a prescriptive approach could constrain meaningful use of AVMs. Another commenter stated that a more prescriptive rule might not adjust to changing industry developments.

One commenter stated that the principles-based approach of the rule would give credit unions flexibility to narrowly tailor their quality control standards to their unique circumstances. Another commenter stated that a prescriptive rule could present an undue burden on small institutions. Another commenter indicated that a principles-based option could mitigate compliance costs and foster innovation in the AVM space but suggested that there is a need for uniformity and consistency when determinations of relevancy and confidence levels are required. The commenter suggested that the rule specifically cite those determinations of relevance and confidence levels.

One commenter who supported the flexible approach stated that banks already adhere to supervisory guidance on model risk management, appraisals, and third-party risk management, making prescriptive regulation unnecessary. This commenter also suggested that a "one size fits all" approach would not work well, given the variety of mortgage originators and their business models. The commenter also argued that prescriptive AVM standards would impede technical innovation but suggested that it

would be helpful for the agencies to provide guidance on the types of issues the agencies have identified with AVMs, as well as potential remedies of those issues, with narratives, analytical and quantitative examples, and case studies to inform stakeholders. Another commenter stated that flexible, transparent, principles-based approaches to AVM standards are relatively inexpensive and not time-consuming to incorporate and apply and that AVM testing and individual AVM model performance detail may be readily available through a firm's internal testing group or numerous third-party, independent testing organizations.

One commenter stated that principles-based quality control standards would help foster innovation that will ultimately benefit consumers and the housing market. The commenter stated that as AVM technology continues to develop, a prescriptive approach to regulation would likely become outdated and ineffective quickly, impeding innovation and limiting regulators' ability to protect consumers as technology evolves. The commenter suggested, however, that focused guidance is warranted to address issues such as testing of AVMs and consideration of whether the use of pricing information in AVM models is appropriate.

One commenter stated that the proposed quality control standards would not hinder competition among AVM developers, AVM users, or future innovation. The commenter stated further that the standards would empower AVM users to utilize risk management practices consistent with the Appraisal Guidelines.

Another commenter who expressed support for the nonprescriptive approach suggested that the wide variety of AVMs and the vast diversity in lender, investor, guarantor, and related stakeholder uses of AVMs would make a prescriptive approach difficult to fashion. This commenter expressed concerns about the unintended consequences of a prescriptive approach. Further, this commenter stated that different stakeholders across the U.S. housing finance industry will (and should) have different strategies, processes, and risk tolerances for the use of AVMs. The commenter also argued that a prescriptive approach would be ill-advised as technology is continuously evolving at an increasing pace, citing artificial intelligence as an example.

Another commenter stated that the proposed principles-based approach is appropriate because AVMs are constantly evolving and model development techniques, model deployment processes, data types, and data sources will change, AVMs will evolve, and risk mitigation, testing, and quality control will have to adapt.

Another commenter stated that the techniques used to train models, including AVMs, that rely on artificial intelligence and machine learning are developing rapidly, and that it would be imprudent to take an overly specific approach that may be incompatible with—or even deter the adoption of—advancements in AVM techniques that are likely to be forthcoming. The commenter stated further that a flexible and principles-based approach, on the other hand, will remain applicable regardless of changes in AVM methodologies, quality control best practices, and data availability. The commenter stated that this is especially true for the proposed nondiscrimination quality

control factor, given that techniques for mitigating disparate impact, debiasing models, and searching for less discriminatory alternatives continue to develop. The commenter argued that a flexible, principles-based approach will encourage and enable entities to adopt the latest, most effective techniques for mitigating discrimination risk.

A minority of commenters preferred a more prescriptive approach to implementing the quality control standards. One commenter argued that the flexible approach would not likely help community banks that may prefer or require clear and simple instructions on how to comply with the quality control standards. Another commenter suggested that a prescriptive approach would create uniformity in the use of AVMs in the marketplace, provide broader consumer protection, and create a consistent level of safety and soundness when institutions rely on AVM conclusions.

One commenter suggested that the final rule include prescriptive standards for AVM testing, validation, and confidence needed to assess whether an AVM was appropriate to use for a particular transaction. Two commenters suggested that the agencies use a blended approach to quality control measures for AVMs, with some standardized reporting and testing requirements, while also allowing covered entities to develop tailored policies, practices, procedures, and control systems. One commenter suggested that AVMs need standardized confidence scores and standardized reporting formats to enable broader use and basic statistics on the temporality, proximity, and homogeneity of the data.

Another commenter stated that the rule should provide specific guidelines to explain how institutions are to structure policies, practices, procedures, and control systems, and should add specific minimum standards for the quality control standards in the final rule. The commenter stated that consumers deserve the same level of protection whether they are obtaining a loan from a larger or smaller originator and recommended that the agencies adopt the Appraisal Guidelines as a rule to make the Appraisal Guidelines stronger and more effective.

Two commenters noted that there was an inconsistency in the proposed rule concerning the third quality control factor relating to avoiding conflicts of interest. The commenters noted that the preamble referred to the third factor as "seek to avoid conflicts of interest" while the regulatory text used "avoid conflicts of interest." These commenters stated that the use of "seek" would be consistent with the statutory language in section 1125. As discussed in more detail below, some commenters also suggested that AVMs should be tested or certified by a third-party tester instead of, or as a supplement to, the approach taken in the proposed rule.

After considering the comments, the agencies have determined that the proposed method was appropriate, and that a flexible approach to implementing the quality control standards would allow the implementation of the standards to evolve along with AVM technology and reduce compliance costs. Different policies, practices, procedures, and control systems may be appropriate for institutions of different sizes with different business models and risk profiles, and a more prescriptive rule could unduly restrict

institutions' efforts to set their risk management practices accordingly. As modeling technology continues to evolve, this flexible approach will allow institutions to refine their implementation of the rule as appropriate. The proposed and now adopted approach will allow mortgage originators and secondary market issuers the flexibility to set their quality control standards for covered AVMs as appropriate based on the size, complexity, and risk profile of their institution and the transactions for which they would use AVMs covered by the rule.

In regard to the suggestion by some commenters that fostering uniformity in the AVM market would benefit consumers and stakeholders, such uniformity could interfere with the appropriate current and future use of AVMs. In addition, the agencies determined that prescriptive rules would pose a challenge due to the inherent complexity of AVMs and their use cases and the differing size and activities of the institutions that use AVMs. The quality control standards adopted are clear and simple and a more prescriptive rule would become unmanageable over time due to rapidly evolving technology.

Moreover, the quality control standards are also consistent with practices that many participants in the mortgage lending market already follow and with the guidance described above that applies to many regulated institutions that will be subject to the final rule. For example, the Model Risk Management Guidance provides comprehensive suggestions for assessing and monitoring model risk, including on appropriate governance, policies, and procedures for model risk management. In addition, Appendix

about the necessity of fair lending and fair housing to a functional marketplace, while another commenter stated that it would help ensure a level playing field. Some commenters asserted that the nondiscrimination factor would work in parallel and reinforce the other quality control factors. One commenter noted that nondiscrimination is implicitly included in the first four factors. This commenter stated further that the nondiscrimination quality control factor does not introduce a new requirement, but rather emphasizes the applicability of nondiscrimination laws to AVMs and is consistent with current law and existing fair lending guidance.

One commenter stated that nondiscrimination should be understood as a dimension of model performance and a required aspect of quality control. The commenter further asserted that discrimination should be understood as a safety and soundness risk. One commenter stated that banks fully support fair lending laws and currently implement fair lending requirements. The commenter stated further that they are aware of the unique considerations that AVMs present and that banks in their State rely on current fair lending requirements and underwriting and appraisal management guidance to guide their use of AVMs, for example through current model risk management guidance. Another commenter stated that the advantages of specifying the fifth factor are that it will emphasize the safe and effective use of AVMs and encourage expanded use of AVMs as a valuation tool in the industry, both on a stand-alone and independent basis where appropriate, as well as in concert with, and as additional support for, traditional, hybrid, and alternative approaches to value.

A number of commenters suggested that AVM use has the potential to reduce bias in valuations, given that AVMs do not take into account the race of the participants to a particular transaction. One commenter suggested that use of nondiscriminatory AVMs has the potential to provide significant benefits to industry and consumers. The commenter stated that, since AVMs do not know the racial composition of the borrower or neighborhood, an AVM may help provide a fair and unbiased estimate of value. The commenter stated further that the fifth quality control factor would encourage expanded use of AVMs as a valuation tool in the industry. The commenter also stated that specifying a nondiscrimination quality control factor in the rule would be useful in emphasizing the importance of providing support for nondiscrimination or analysis of the potential disparate impact in the use of AVMs.

Similar to the first four quality control factors, most commenters supported a nonprescriptive approach to the nondiscrimination factor. One commenter explained that a flexible approach would assist in the process of adapting existing policies into the framework of quality control standards. One commenter suggested that a principles-based approach would enable innovation while building a sustainable framework to reduce discrimination, advance fair lending and fair housing, and ensure accuracy in home valuation processes by requiring entities to align their policies and procedures with promulgated principles. Another commenter stated that a nonprescriptive approach would prevent interference with the industry developing innovative solutions to address discrimination. A few commenters stated that the principles-based approach would allow

lenders to take into account changes in AVM technology. One commenter noted that there is a lack of consensus among stakeholders concerning how AVMs should be evaluated with respect to fair lending and suggested that the proposed flexible approach is best because it would account for the current level of uncertainty.

One commenter stated that agency guidance would be the appropriate venue to address the more nuanced issues of compliance, such as how to conduct particular types of testing, including outcomes-based testing for disparate impact, and how to evaluate potential less discriminatory alternatives to an AVM that results in disparate outcomes. The commenter suggested that the final rule should articulate baseline standards for nondiscrimination from applicable statutes and regulations, specifically the ECOA and Fair Housing Act's prohibitions on disparate treatment and disparate impact. The commenter also suggested that compliance with applicable antidiscrimination laws calls for more than simply avoiding the use of prohibited bases as predictive variables in an AVM and that a proper compliance program involves other forms of antidiscrimination testing, such as disparate impact and bias testing.

One commenter stated that existing compliance management systems and fair lending monitoring programs should be able to assess whether an AVM applies different standards or produces disparate valuations on a prohibited basis. A few commenters supported a more prescriptive approach and expressed a need for bias testing standards.

Commenters made additional recommendations, including that the agencies release loan-level data from the Uniform Appraisal Dataset to provide a robust data set to

evaluate AVMs and identify less discriminatory alternatives. One commenter also suggested that the agencies organize and encourage private sector activities, such as conferences and research, to inform ongoing guidance on compliance with the quality controls standards. Other commenters suggested that the agencies issue guidance on how to implement the fifth quality control factor.

In contrast, several commenters opposed including the fifth factor. Commenters expressed various concerns, including that the factor would impose a significant compliance burden, lender systems are not able to assess whether an AVM discriminates, the factor is not required by statute, and the addition of the factor is unnecessary and duplicates existing law and the other quality control factors. Two commenters suggested that documented instances of bias in AVMs are not prevalent, and one of these commenters stated that it would be a mistake to attempt to eradicate through regulation the speculative possibility of bias in AVMs, which could reduce AVM use, when the use of this technology can remove the type of subjective, personal bias that traditional appraisals bring to the valuation process. In addition, some commenters stated that the agencies should use other tools to address AVM bias concerns and the onus should be on AVM vendors to ensure models comply with nondiscrimination laws. A few commenters stated that adding this factor may have unintended effects, such as increased loan costs for consumers and small institutions deciding to stop using AVMs altogether in mortgage origination due to uncertainty and the cost of compliance.

One commenter stated that banks support fair lending laws, dedicate considerable

resources to comply with them, and are regularly examined for compliance with those laws. The commenter stated, however, that adding a fifth factor on nondiscrimination is not necessary. This commenter noted that long-standing fair lending laws have and will continue to apply to mortgage transactions and the agencies regularly assess banks' compliance management systems. According to this commenter, the agencies can ensure through their examinations that policies, procedures, and controls are in place to address fair lending risk in AVM use. The commenter stated that the agencies can heighten the awareness of fair lending risks without regulation through bulletins and policy guidance. The commenter also expressed concern that codifying the rule in Regulation Z could result in plaintiffs challenging originators with the private right of action and statutory damages set forth in the TILA, which could increase costs for banks and their customers. The commenter stated that Congress clearly did not intend such a result, given that it added the quality control requirements in FIRREA, not TILA.

Several commenters expressed concerns about the ability of lenders to apply quality control standards for fair lending to AVM models. Some commenters expressed concern about how small entities can assess fair lending issues in AVMs or know that they are violating the law. They asserted that existing compliance management systems and fair lending monitoring programs are not able to assess whether an AVM applies different standards or produces disparate valuations on a prohibited basis. They argued that small entities do not have access to an AVM's data or methodology, are unable to validate the algorithms that AVM providers use, and lack the staff to assess the AVM

models results.

One commenter stated that most community banks lack in-house expertise needed to test for disparate impact and will lack the volume to yield the number of observations required for testing. The commenter stated that even many larger institutions lack sufficient mortgage lending activity to engage in testing and to justify the cost of disparate impact testing. Another commenter stated that the quality control factor for nondiscrimination may force community banks to shift to using appraisals because of the compliance challenges and uncertainty relating to implementation of the factor. The commenter stated that this will likely disincentivize mortgage lending in rural areas where AVMs can be utilized as a more cost-effective, efficient, and accurate option. The commenter stated that requiring community banks to assess and evaluate models for potential fair lending concerns would be unreasonable, redundant, and extremely costly. The commenter stated further that a community bank is unlikely to retain staff with sufficient expertise to determine valuation accuracy and reverse engineer the algorithms to assess any fair lending red flags.

One commenter stated that credit unions' existing systems are not able to assess whether AVMs discriminate and that the data and resources needed to undertake an analysis of AVMs, including analysis for discriminatory bias, would be significant. Another commenter argued that the inclusion of the factor may make it difficult for credit unions to use AVMs in originating loans. The commenter stated further that to the extent the quality control standards require fair lending testing of AVM values,

small credit unions may not have large enough data sets to be able to do meaningful, statistically significant testing of their AVM results. The commenter stated that credit unions lack control over the proprietary inputs and data that feed into AVMs and lack bargaining power and resources to examine third-party proprietary algorithms that power AVMs.

Other commenters stated that the agencies should use other tools to address AVM bias concerns, including asserting supervisory authority over AVM vendors as service providers and utilizing Dodd-Frank Act authority to supervise nonbank companies that pose risks to consumers. Another commenter argued that fair lending guidelines and mandates should remain within the purview of the Interagency Fair Lending Examination Procedures, thereby creating clarity for compliance management systems and a consistent examiner approach.

Several commenters stated that the burden of compliance with the fifth factor should be placed on the AVM provider. Commenters argued that lenders do not have access to proprietary models used by third parties to be able to assess fair lending performance. One commenter argued that to place the burden on financial institutions would be excessive as financial institutions are obligated to comply with existing regulatory regimes under the ECOA and the Fair Housing Act. One commenter expressed concern regarding lender liability for violating nondiscrimination law when relying on third-party AVMs.

Several commenters requested additional guidance regarding compliance with the nondiscrimination factor. One commenter stated that the agencies have not provided a clear performance indicator by which a lender could discern any inherent bias within a data set. The commenter urged the agencies to provide clear guidance on discriminatory red flags in AVMs. The commenter stated that different industry players have access to varying quality of data, that the agencies should account for this in their guidance and recommendations, and that little legal clarity exists around practices in the AVM industry that may violate the Fair Housing Act.

As the agencies noted in the proposal, existing nondiscrimination laws apply to appraisals and AVMs, and institutions have a preexisting obligation to comply with all Federal laws, including Federal nondiscrimination laws. For example, the ECOA and its implementing Regulation B bar discrimination on a prohibited basis in any aspect of a credit transaction.[33] The agencies have long recognized that this prohibition extends to using different standards to evaluate collateral,[34] which includes the design or use of an AVM in any aspect of a credit transaction in a way that would treat an applicant differently on a prohibited basis or result in unlawful discrimination against an applicant

[33] 15 U.S.C. 1691(a) (prohibiting discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity) or marital status, age (provided the applicant has the capacity to contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act); *see also* 12 CFR part 1002. This prohibition includes discrimination on the prohibited basis characteristics of "the neighborhood where the property offered as collateral is located." 12 CFR part 1002, supp. I, para. 2(z)-1.

[34] *See* Interagency Task Force on Fair Lending, *Policy Statement on Discrimination in Lending*, 59 FR 18266, 18268 (Apr. 15, 1994) (noting that under both ECOA and the Fair Housing Act, a lender may not, because of a prohibited factor, use different standards to evaluate collateral).

a model, which bears on the second quality control factor in section 1125. The fourth quality control factor requires random sample testing and reviews of AVMs. The proposed fifth factor on nondiscrimination may include an array of tests and reviews, including fair lending reviews, which would support the general requirement for random sample testing, and review in section 1125. The first four factors do not, however, expressly address quality control measures relating to compliance with nondiscrimination laws.

The fifth quality control factor is consistent not only with current law, but also with well-established fair lending guidance. The OCC, Board, FDIC, NCUA, CFPB, and FHFA have issued statements and other materials setting forth principles they will consider to identify discrimination.[37] The OCC, Board, FDIC, NCUA, and CFPB have further underscored the importance of robust consumer compliance management to prevent consumer harm in the Interagency Policy Statement on the Use of Alternative Data in Credit Underwriting (Alternative Data Policy Statement). In the Alternative Data Policy Statement, the agencies emphasized that "[r]obust compliance management includes appropriate testing, monitoring and controls to ensure consumer protection risks

---

[37] *See, e.g.*, Interagency Task Force on Fair Lending, *Policy Statement on Discrimination in Lending*, 59 FR 18266 (Apr. 15, 1994), *available at https://www.govinfo.gov/content/pkg/FR-1994-04-15/html/94-9214.htm;* Interagency Fair Lending Examination Procedures (Aug. 2009), *available at https://www.ffiec.gov/PDF/fairlend.pdf;* CFPB, *Examination Procedures - ECOA* (Oct. 2015), *available at https://files.consumerfinance.gov/f/documents/201510_cfpb_ecoa-narrative-and-procedures.pdf;* Federal Housing Finance Agency, *Policy Statement on Fair Lending*, 86 FR 36199 (July 9, 2021), *available at https://www.govinfo.gov/content/pkg/FR-2021-07-09/pdf/2021-14438.pdf.*

agencies provide more guidance to ensure a clear understanding of control expectations. Similarly, another commenter asked that the agencies provide more information on how the proposed rule relates to existing guidance about control systems and model usage. The commenter suggested that the agencies issue a compliance guide and frequently asked questions to facilitate implementation for small entities. One commenter stated that, while a "policies and procedures" requirement is the established, well-understood compliance implementation framework for this type of regulation, the proposed definition of control systems is nonstandard and overly defined. The commenter further stated that the rule's related but undefined term "practices" is nonstandard. Other commenters suggested that the final rule include specific control standards.

As discussed earlier, guidance is already in place to assist regulated institutions in implementing policies, practices, procedures, and control systems relating to model risk, third-party risk, AVMs, and nondiscrimination. Institutions that are not regulated by the agency or agencies providing the guidance may still look to the guidance for assistance with compliance. Regarding the comments concerning the inclusion of control systems, the agencies note that policies, practices, procedures, and control systems are all part of ensuring that AVMs adhere to the rule's requisite quality control standards. In addition, many institutions already employ control systems with respect to AVM use. These factors, in addition to the rule's flexible approach to implementing the statute, should allow institutions to implement appropriate control systems and mitigate compliance costs, particularly for smaller

purchasing a home for their future permanent residence but who are assigned temporarily to a different duty station.

In response to these comments, the agencies note that section 1125 does not limit the definition of AVM to collateral that is deemed to be real property, nor does it limit coverage by the AVM requirements to credit transactions that are primarily for personal, family, or household purposes. Instead, the statute focuses on the valuation of a consumer's principal dwelling that secures a mortgage. In response to the comments on limiting the rule to a principal dwelling, the agencies note that the statute expressly defines an AVM as one used to value a consumer's principal dwelling. The final rule is consistent with the plain language of the statute and the agencies decline to expand the scope of the requirements beyond principal dwellings.

With respect to the commenters' argument that valuation tools used for manufactured homes, RVs, and boats are not AVMs, the definition of AVM in the statute covers "*any* computerized model" used to determine the value of a consumer's principal dwelling.[46] The agencies do not opine on whether any specific product, including a cost estimate and other valuation tool, is an AVM that would be covered under this rule. As noted by commenters, AVMs that rely on artificial intelligence, machine learning, and other technologies are developing rapidly. Since AVM modeling technology will continue to evolve, valuation products that do not currently meet the definition of an AVM may meet that definition in the future. As such, the agencies have determined that

---

[46] 12 U.S.C. 3354(d) (emphasis added).

Most commenters who addressed the definition of "mortgage" in the proposal expressed support for the proposed language. Several commenters supported including purchase money security interests arising under installment sales contracts in the definition of "mortgage." One commenter stated that consumers should have the same protection in these contracts as in other types of mortgage financing. The commenter also stated that TILA, the Real Estate Settlement Procedures Act, and the S.A.F.E. Act apply to installment sales contracts to the same extent as to traditional mortgage loans (depending on whether the originating lender makes a certain volume of transactions), so including installment contracts in the rule would be consistent with other current laws. The commenter stated further that including sales contracts in the AVM rule would ensure appropriate protections for these transactions that disproportionately impact homebuyers of color. The commenter also stated that sales contracts are typically made for smaller amounts and used to purchase less expensive homes, and thus AVMs are more likely to be used in these transactions.

Another commenter in support of covering installment contracts stated that a narrower definition would have a disparate impact on protected classes by excluding broad swaths of the market from the quality control standards. Similarly, a different commenter stated that applying quality controls for AVMs used in these contracts would provide consumer protection in a space where consumers are often vulnerable to coercive agreements.

Conversely, one commenter stated that, when combined with the proposed definitions of "consumer" and "dwelling," the definition of "mortgage" is not clear. The commenter stated that the rule proposes to adjust the definition of "primary use," removing the exception for business-purpose lending, among other exceptions, from Regulation Z § 1026.3. The commenter suggested that the proposed definitions and changes to the TILA rules will cause a disconnect in how organizations apply the rest of the TILA standards, which take the exceptions into consideration when applying the rule to mortgage transactions. The commenter stated further that the definitions would not align with the current Federal credit union definitions of mortgage. For those reasons, the commenter suggested that definitions of "consumer," "dwelling," and "mortgage" should only be applicable to AVM use, and not cause universal changes to Regulation Z. In addition, a different commenter suggested that the inclusion of sales contracts in the definition of "mortgage" should be decided separately from a consideration of AVM standards and requested that the agencies clarify whether the rule would include HELOCs and closed-end home equity loans.

The agencies have determined that the comprehensive coverage of the mortgage market that the proposed definition would bring about is the best way to implement the statutory language. The agencies agree with those commenters who stated that this definition will provide appropriate consumer protection for the often-vulnerable consumers in the installment sales contracts market. The agencies do not agree that this definition, and the others adopted in this rule, will interfere with the current interpretation

standards similar to USPAP for AVMs that includes key definitions, minimum reporting requirements, and required certifications.

One commenter stated that it would be beneficial to have some level of standardization of metrics used to measure an AVM's success or failure. The commenter suggested that the industry is best suited to continue working with developers and users of AVMs to promote consistency in AVM measurement and testing, such as by developing a consistent approach to confidence scores.

Another commenter suggested that regulated parties would greatly benefit from more transparency and access to data from the FHFA, the Uniform Collateral Data Portal, and the Uniform Mortgage Data Program. This commenter further suggested that Federal regulators should evaluate real estate data availability at the State and local level, as these data are essential for ensuring AVM credibility.

In contrast, one commenter stated that industry stakeholders, including originators, secondary market participants, and property valuation vendors have already established straightforward, transparent, and fair AVM testing and ranking (*i.e.*, cascading rule sets allowing for comparing predictions from different AVMs). The commenter stated further that flexible, transparent, principles-based approaches to AVM guidelines are relatively inexpensive and not time-consuming to incorporate and apply and that AVM testing and individual AVM model performance detail may be readily available through a firm's internal testing group or numerous third-party, independent testing organizations. In responding to the question in the proposal about the impact on

small entities, that commenter stated that AVM testing is inexpensive and can be done easily by large or small entities. In addition, the commenter stated that cascading rule sets and platforms using multiple lending grade AVMs from quality providers are readily available. For these reasons, the commenter argued that quality control standards for AVMs would not disadvantage small entities.

Another commenter stated that AVM vendors already provide comprehensive information to financial institutions to demonstrate the quality control of their AVMs. The commenter further stated that financial institutions currently require AVM vendors to fill out numerous questionnaires (usually once to twice per year) to address large numbers of compliance issues and best practices, in addition to AVM developer, lender, and third-party testing. The commenter also stated that financial institutions require explanations and testing detail that documents how AVMs work, their accuracy, their multiple models, and the models' infrastructure. The commenter stated that the predominant purpose of the questionnaires is to address concerns that the financial institution has, and that the financial institution is following a process to protect its customers and its safety and soundness. In addition, another commenter recommended that there be education and training for users of AVMs.

The agencies recognize that SSOs and third-party AVM testing entities could be beneficial to effective compliance with the AVM rule. As long as financial institutions meet the obligations stated in the final rule, they are free to work with third parties to assist them with their compliance obligations. In regard to comments suggesting other

suggested that commentary on how existing guidance applies to third-party oversight of the AVM quality control standards may be beneficial at some point in the future.

Another commenter stated that the Appraisal Guidelines and NCUA's third-party risk management expectations already advise credit unions that they need to understand the AVMs they use, including the AVM's limitations; have controls in place to mitigate risks (including with regard to non-discrimination laws); and monitor the relationship and results to ensure that the AVM is working and being used as designed.

As discussed earlier, many of the agencies have already provided guidance on implementing policies, practices, procedures, and control systems relating to model risk, third-party risk, AVMs, and nondiscrimination. As explained above, institutions that are not regulated by the agency or agencies providing the guidance may still look to the guidance for assistance with compliance. In addition, institutions should be able to work with AVM providers to assist them with their compliance obligations under the rule.

Under safety and soundness standards, and as reflected in related guidance, while institutions should not rely solely on testing and validation representations provided by an AVM vendor, an institution does not necessarily need to conduct its own testing and validation, provided that the institution's policies, practices, procedures, and control systems for evaluating the sufficiency of the vendor's testing and validation are appropriate based on the size, complexity, and risk profile of the institution and the transactions for which they would use AVMs covered by the rule.

and the respondent is not required to respond to, an information collection unless it displays a current Office of Management and Budget (OMB) control number.

The agencies received three comments on estimated labor hours and costs for the information collection requirements of the proposed rule. One commenter stated that the agencies’ estimate of the labor hours associated with recordkeeping by covered entities in years following implementation may be appropriate for documentation of policies and procedures, but suggested that the proposed rule underestimated other regulatory burdens associated with ongoing compliance. Another commenter stated that the agencies’ estimate of labor hours associated with recordkeeping by covered entities seemed relatively low given the effort needed to establish control systems. Finally, one commenter stated that incorporating principles-based guidelines regarding AVMs is not costly or time consuming.

The agencies have carefully reviewed burdens associated with recordkeeping, reporting, and disclosure for each section of the rule in consideration of the comments received. The agencies note that, consistent with the PRA, the PRA burden estimates reflect only the burden related to recordkeeping, reporting, and disclosure requirements in the final rule. PRA burdens, like compliance costs, may vary across institutions, and the agencies' PRA burden estimates are meant to be overall averages. The agencies believe the estimates of burden hours are reasonable considering the recordkeeping requirements of the final rule. For further discussion of response to commenters, particularly related to other regulatory costs incurred by covered entities, please refer to the part titled

“Discussion of the Proposed Rule, Comments Received, and the Final Rule” within the **SUPPLEMENTARY INFORMATION** section of this document.

The final rule establishes quality control standards mandated by the Dodd-Frank Act for the use of AVMs by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer’s principal dwelling. Section 1473(q) of the Dodd-Frank Act amended title XI to add section 1125 relating to the use of AVMs in valuing real estate collateral securing mortgage loans. Section 1125 directs the agencies to promulgate regulations to implement quality control standards regarding AVMs.

The final rule requires supervised mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, to adopt and maintain policies, practices, procedures, and control systems to ensure that AVMs used in these transactions adhere to quality control standards designed to: (a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data; (c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and (e) Comply with applicable nondiscrimination laws.

The quality control standards in the final rule are applicable only to covered AVMs, which are AVMs as defined in the final rule. The final rule requires the regulated mortgage originators and secondary market issuers to adopt policies, practices,

procedures, and control systems to ensure that AVMs adhere to the specified quality control standards whenever they use covered AVMs while engaging in certain credit decisions or covered securitization determinations.

As a result, the final rule creates new recordkeeping requirements. The agencies therefore revised their current information collections related to real estate appraisals and evaluations. The OMB control numbers are for the OCC, 1557-0190; for the Board, 7100-0250; for the FDIC, 3064-0103; and for the 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 final rule, the agencies are also updating and aligning their information collections with respect to the estimated burden hours associated with the Appraisal Guidelines.

The information collection requirements contained in this final rule have been submitted by the OCC, the FDIC, and the NCUA to the OMB for review and approval under section 3507(d) of the PRA[66] and section 1320.11 of the OMB's implementing regulations.[67] The Board reviewed the final rule under the authority delegated to the Board by OMB.

Comments are invited on:

[66] 44 U.S.C. 3507(d).
[67] 5 CFR 1320.

(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 in the **ADDRESSES** section of this document. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection by selecting "Currently under 30-day Review—Open for Public Comments'' or using the search function.

Title of Information Collection: Recordkeeping and Disclosure Requirements and Provisions Associated with Real Estate Appraisals and Evaluations.

Frequency of Response: Annual and event generated.

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), nonbank subsidiaries of BHCs, savings and loan holding companies (SLHCs), nondepository subsidiaries of SLHCs, Edge and agreement corporations, U.S. branches and agencies of foreign banks, and any nonbank financial company designated by FSOC to be supervised by the Board.

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

NCUA: Private Sector: Not-for-profit institutions.

General Description of Information Collection:

For federally related transactions, title XI requires regulated institutions[68] to obtain appraisals prepared in accordance with USPAP as promulgated by the Appraisal Standards Board of the Appraisal Foundation. Generally, these standards include the methods and techniques used to estimate the market value of a property as well as the requirements for reporting such analysis and a market value conclusion in the appraisal.

[68] National banks, Federal savings associations, SMBs and nonbank subsidiaries of BHCs, insured state nonmember banks and state savings associations, and insured state branches of foreign banks.

Regulated institutions are expected to maintain records that demonstrate that appraisals used in their real estate-related lending activities comply with these regulatory requirements.

The final rule requires supervised mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, to adopt and maintain policies, practices, procedures, and control systems to ensure that AVMs used in these transactions adhere to quality control standards designed to:

(a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data;

(c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and

(e) Comply with applicable nondiscrimination laws.

Current Action: The final rule creates new recordkeeping requirements in connection with adopting and maintaining policies, practices, procedures, and control systems. The agencies estimate that the new recordkeeping burden associated with the final rule will result in an implementation burden of 40 hours and .33 responses per respondent and an annual ongoing burden of 5 hours and one response per respondent. In addition to accounting for the PRA burden incurred, as a result of this final rule, the agencies are also updating and aligning their information collections (IC) with respect to the estimated burden hours associated with the Appraisal Guidelines. This will result in

an annual ongoing burden of 10 hours per respondent for recordkeeping and an annual ongoing burden of 5 hours per respondent for disclosure.

OCC Burden

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 – AVM Rule – Policies and Procedures (Implementation)	Proposed § 34.222	342	13.33 hours (40 hours divided by 3 years)	4,560

Recordkeeping: New IC 2 – AVM Rule – Policies and Procedures (Ongoing)	Proposed § 34.222	342	5	1,710
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 OREO	§ 34.86	6	5	30
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				**185,039**

Board Burden

Table 2. Summary of Estimated Annual Burden (FR Y-30; 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	706	498	5 minutes	29,299

Sections 225.61 - 225.67 for BHCs and nonbank subsidiaries of BHCs	4,516	409	5 minutes	153,920
Guidelines	5,222	1	10	52,220
Policies and Procedures AVM rule (Initial setup)	2,036	1	13.3	27,147
Policies and Procedures AVM rule (Ongoing)	2,036	1	5	10,180
Disclosure				
Guidelines	5,222	1	5	26,110
Total Annual Burden Hours				**298,876**

FDIC Burden

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)	2,936	259	5 minutes (0.083)	63,369
New IC 1 – AVM Rule – Policies and Procedures - Implementation (Mandatory)	Recordkeeping (Annual)	1,010	.33	40 hours	13,320
New IC 2 – AVM Rule – Policies and	Recordkeeping (Annual)	1,010	1	5 hours	5,050

The final rule will apply to FICUs relying on AVMs in their residential mortgage-lending decisions. Year-end 2023 data indicate 1,789 small-entity FICUs held residential real-estate loans (1st or junior liens). This represents 63.2 percent of small credit unions.

The NCUA does not currently require supervised credit unions to note in their quarterly data submissions whether AVMs are used in mortgage originations/modifications for owner-occupied residential real estate. In prior AVM analysis, the FDIC estimated that as many as 10 percent of their supervised institutions currently use an AVM for mortgage origination decisions, loan modification decisions, and securitization decisions covered by the final rule.[105] Applying this 10 percent estimate suggests the final rule could apply to up to 178 "small entity" credit unions. The FDIC notes AVM use is likely strongly positively correlated with institution size. Given the small size of most FICUs, it is likely far fewer than 10 percent use AVMs in residential-mortgage underwriting.[106] To be conservative, the 10 percent is used as an upper bound in the following analysis.

4. *Projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.*

---

[105] 88 FR 40638 at 40659 (June 23, 2023).

[106] Discussions with NCUA examiners and supervisors supported the notion 10 percent is a high upper bound.

Some industry commenters provided feedback on the magnitude of the estimated burden hours, which form a core part of the IRFA analysis. Two commenters provided estimates for what they believe the burden hours will be. One of these commenters stated that a statistically-based, rigorous analytical approach would require between 100 and 400 hours a year and that, in particular, testing AVMs for compliance with nondiscrimination laws requires building a database, cleaning data, carefully building samples, and running regression tests. The commenter noted that if a company were to outsource their validation of AVMs, then the agencies' estimated burden hours might be adequate, but that there would be a cost to outsourcing. Another commenter stated that covered institutions would need to create some controls that would be based on statistical analysis and provided a rough estimate of 320 to 480 hours. The CFPB outlined the estimated burden hours that it uses in the IRFA analysis more explicitly in the SBREFA Panel Report: 69 hours for verifying compliance, 65 hours for drafting and developing policies, practices, procedures, and control systems, and 60 hours for training. Therefore, the total number of estimated hours in the first year is 194 and primarily includes costs for "Legal Services." In both the SBREFA Panel Report and the IRFA, the CFPB did not assume costs for statistician services. If a small entity needs statistician services, the SBREFA analysis "anticipates that most third parties would be able to provide institution-specific … service that accompanies an AVM." As discussed in part III.E.2 of the **SUPPLEMENTARY INFORMATION** of this document, as long as institutions adopt and maintain policies, practices, procedures, and control systems to ensure that

harm to small entities and consumers would be minimized, and that the nondiscrimination quality control factor should not be included in the final rule. Additionally, Advocacy suggested that small entities be exempt from the rule and, if that was not possible, that they should be allowed to rely on third-party certification of AVM providers or be provided a safe harbor for compliance. Finally, Advocacy asked that the agencies provide clear guidance to small entities to aid in compliance with the rule.

Small entities and AVM providers. Advocacy stated that small entities should not be responsible for the activities of AVM providers because they do not control those providers, and therefore cannot quality control the data or the algorithms used. In addition, Advocacy stated that small entities do not have the bargaining power to require AVM providers to take actions to be in compliance with the rule. As discussed above, the agencies believe that financial institutions, including small financial institutions, will be able to work with AVM providers to assist them with their compliance obligations under the rule, as they do with other third-party vendors in order to comply with relevant regulatory requirements.

Burden on small entities. Advocacy stated that the agencies should work to reduce the burden of the rule on small entities. Advocacy explained that it believed that the rule's costs would harm small entities and potentially reduce the use of AVMs, causing consumers to pay for more costly appraisals. As discussed above and below, in an effort to minimize the economic impact on small entities, the agencies considered and rejected a number of alternatives while drafting the final rule that otherwise would have

resulted in greater costs to small entities than would the final rule. The CFPB recognizes that small entities will experience some new costs to comply with the final rule, but the CFPB does not believe that the burden of the rule is excessive. Furthermore, the CFPB believes that the rule will not reduce the availability of AVMs, and that it will benefit consumers by ensuring the quality and accuracy of the valuations provided.

Nondiscrimination quality control factor. Advocacy stated that the agencies should exclude the nondiscrimination quality control factor from the regulation. Advocacy stated that the statute does not specifically state that quality control standards for AVMs must address the issue of discrimination. In addition, Advocacy noted that at the SBREFA Panel outreach meeting, the SERs uniformly raised concerns regarding how they could assess fair lending issues in AVMs or know that they are violating the law. Moreover, Advocacy stated that there are other mechanisms to address the issue of discrimination. Advocacy explained that small entities are already required to comply with nondiscrimination and fair lending laws, and making small entities responsible for assessing fair lending issues in AVMs adds an extra layer of burden. As explained above, the agencies have the authority to account for any other such factor that the agencies determine to be appropriate. Moreover, while existing nondiscrimination law applies to an institution's use of AVMs, the CFPB believes that it is important to specify a fifth factor relating to nondiscrimination to heighten awareness among lenders of the applicability of nondiscrimination laws to AVMs. Given the existing obligation, the CFPB does not believe that the burden of the rule is excessive. Furthermore, as discussed

above, the agencies believe that financial institutions, including small financial institutions, will be able to work with AVM providers to assist them with their compliance obligations under the rule, including compliance with the nondiscrimination factor, as they do with other third-party vendors in order to comply with relevant regulatory requirements.

Exemption, certification or safe harbor. Advocacy suggested that small entities be exempt from the rule and, if that was not possible, that they should be allowed to rely on third-party certification of AVM providers or be provided a safe harbor for compliance. The CFPB notes that section 1125 does not provide for exemption authority and the CFPB does not believe that an exemption is necessary or appropriate. Section 1125 requires quality controls for AVMs, and the CFPB believes that consumers who patronize small entities should benefit from the consumer protections that the rule provides, and the CFPB does not believe that the burden of the rule is excessive. In regard to the request for third-party certification, as explained above, the CFPB recognizes that third-party certification could be beneficial to effective implementation of the AVM rule and, as long as financial institutions meet the obligations stated in the rule, they are free to work with third parties to assist them with their compliance obligations. Finally, the CFPB does not believe that a safe harbor is warranted, as the burden on small entities will not be such that a simplified compliance method, which might be less protective of consumers, would be needed.

firms are small entities. Lastly, due to a lack of more recent data in the Economic Census, the CFPB scales up the 2017 estimate by a factor of 1.3363 (same as before) to obtain a 2023 estimate of 756 small entities.

Finally, only small entities that themselves, or through or in cooperation with a third-party or affiliate, utilize AVMs in credit decisions or covered securitization determinations will be covered by the final rule. The remaining small entities may opt for alternative valuation methods not involving AVMs. Due to the lack of data on the usage of AVMs by small entities in credit decisions or covered securitization determinations, the CFPB follows the FDIC and makes the following assumption: the range of AVM usage lies between 10 percent (lower bound) and 100 percent (upper bound). Applying this assumption to the estimated total number of small entities results in the estimated range of covered small entities shown in the following table:

Table B: Estimated lower and upper bounds of covered small entities in 2023

	Lower Bound	Upper Bound
Est. Number of Covered Small Entities	478	4,779
Assumed Proportion of Small Entities Using AVMs	10%	100%

In summary, the CFPB estimates that between 478 and 4,779 small entities will be covered by the final rule.

In this analysis, the CFPB also considered including other NAICS categories, most notably "Mortgage and Nonmortgage Loan Brokers" (NAICS 522310). This industry includes establishments primarily engaged in arranging loans by bringing

Costs to small entities. The CFPB expects that the final rule may impose one-time and ongoing costs on small nondepository entities who use AVMs in valuing real estate collateral securing mortgage loans. The CFPB has identified three categories of costs that make up the components necessary for a nondepository institution to comply with the final rule. Those categories are drafting and developing policies, practices, procedures, and control systems; verifying compliance; and training staff and third parties. Nondepositories will incur the bulk of these costs in the first year. However, the CFPB anticipates that nondepositories will incur some ongoing costs in subsequent years, such as updating policies, practices, procedures, and control systems, continuing review for compliance, and training new staff. Following the FDIC, the CFPB assumes that the ongoing annual costs will be one-third of the one-time first-year costs.

Using the cost methodology outlined in the SBREFA Panel Report, the CFPB estimates that the one-time costs in the first year for each covered small nondepository entity will be the following: $7,000 for drafting and developing policies, practices, procedures, and control systems, $10,000 for verifying compliance, and $6,000 for training. Thus, the total costs per entity will be $23,000 in the first year and $7,667 for each subsequent year.

The CFPB calculates the overall market impact of the final rule on small entities by multiplying the costs per entity by the estimated number of covered small entities. The CFPB estimates that the overall market impact of one-time costs in the first year for covered small nondepositories will be between $10,994,000 and $109,917,000. The

are briefly described and their impacts relative to the final provisions are discussed herein.

Coverage of loan modifications and other changes to existing loans. The CFPB considered a rule that would exclude AVMs used in loan modifications not resulting in new mortgage originations. As discussed in the proposal preamble and the SBREFA Panel Report, during the SBREFA process SERs generally favored that approach. The CFPB understands that the final rule's coverage of loan modifications and other changes to existing loans will introduce additional burden to small entities. However, the CFPB has determined that this coverage will aid in fulfilling the consumer protection objective of section 1125. For consumers seeking loss mitigation, obtaining an AVM valuation that adheres to the quality control standards in the final rule during the loan modification process will be particularly important for their financial decision-making and outcomes, given they are already in financial distress. During the proposed rule stage, the CFPB requested comments on the likely impact of this coverage aspect of the rule on the compliance costs of small entities and did not receive specific feedback to warrant excluding AVMs used in loan modifications that do not result in new mortgage originations.

Coverage of credit line reductions or suspensions. The CFPB considered a rule that would not cover AVMs used solely in deciding whether or to what extent to reduce or suspend a home equity line of credit. As discussed in the proposal preamble and the SBREFA Panel Report, during the SBREFA process SERs discussed balancing the

12 CFR Part 1026

Advertising, Banks, banking, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 1222

Appraisals, Government-sponsored enterprises, Mortgages.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For reasons set out in the joint preamble, the Office of the Comptroller of the Currency amends part 34 of chapter I of title 12 of the Code of Federal Regulations to read as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

1. The authority citation for part 34 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 25b, 29, 93a, 371, 1465, 1701j–3, 1828(o), 3331 *et seq.*, 5101 *et seq.*, and 5412(b)(2)(B).

2. Add subpart I to part 34 to read as follows:

Subpart I—Quality Control Standards for Automated Valuation Models Used for Mortgage Lending Purposes

Sec.

34.220 Authority, purpose, and scope.

34.221 Definitions.
34.222 Quality control standards.

§ 34.220 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to section 1125 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3354, as added by section 1473(q) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376, 2198 (2010)).

(b) *Purpose and scope.* (1) The purpose of this subpart is to implement the quality control standards in section 3354 of title 12 for the use of automated valuation models in determining the value of collateral in connection with making a credit decision or covered securitization determination regarding a mortgage or mortgage-backed security. This subpart applies to entities regulated by the OCC that are mortgage originators or secondary market issuers.

(2) This subpart does not apply to the use of automated valuation models in:

(i) Monitoring of the quality or performance of mortgages or mortgage-backed securities;

(ii) Reviews of the quality of already completed determinations of the value of collateral; or

(iii) The development of an appraisal by a certified or licensed appraiser.

§ 34.221 Definitions.

As used in this subpart:

Automated valuation model means any computerized model used by mortgage

originators and secondary market issuers to determine the value of a consumer's principal dwelling collateralizing a mortgage.

Control systems means the functions (such as internal and external audits, risk review, quality control, and quality assurance) and information systems that are used to measure performance, make decisions about risk, and assess the effectiveness of processes and personnel, including with respect to compliance with statutes and regulations.

Covered securitization determination means a determination regarding:

(1) Whether to waive an appraisal requirement for a mortgage origination in connection with its potential sale or transfer to a secondary market issuer; or

(2) Structuring, preparing disclosures for, or marketing initial offerings of mortgage-backed securitizations.

Credit decision means a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision whether to extend new or additional credit or change the credit limit on a line of credit.

Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, factory-built housing, or manufactured home, if it is used as a residence. A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home would not be a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal

dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this subpart.

Mortgage means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in a consumer's principal dwelling.

Mortgage originator:

(1) Means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain–

(i) Takes a mortgage application;

(ii) Assists a consumer in obtaining or applying to obtain a mortgage; or

(iii) Offers or negotiates terms of a mortgage;

(2) Includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in paragraph (1);

(3) Does not include any person who is–

(i) Not otherwise described in paragraph (1) or (2) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such paragraph; or

(ii) A retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable–

(A) Does not receive compensation or gain for engaging in activities described in paragraph (1) that is in excess of any compensation or gain received in a comparable cash transaction;

(B) Discloses to the consumer–

(*1*) In writing any corporate affiliation with any creditor; and

(*2*) If the retailer has a corporate affiliation with any creditor, at least 1 unaffiliated creditor; and

(C) Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs);

(4) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

(5) Does not include a person that meets all of the following criteria:

(i) The person provides seller financing for the sale of three or fewer properties in any 12-month period to purchasers of such properties, each of which is owned by the person and serves as security for the financing;

(ii) The person has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The person provides seller financing that meets the following requirements:

(A) The financing is fully amortizing;

(B) The financing is one that the person determines in good faith the consumer has a reasonable ability to repay;

(C) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(6) Does not include a natural person, estate, or trust that meets all of the following criteria:

(i) The natural person, estate, or trust provides seller financing for the sale of only one property in any 12-month period to purchasers of such property, which is owned by the natural person, estate, or trust and serves as security for the financing;

(ii) The natural person, estate, or trust has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The natural person, estate, or trust provides seller financing that meets the following requirements:

(A) The financing has a repayment schedule that does not result in negative amortization;

(B) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(7) Does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a mortgage for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

Person has the meaning given in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

Secondary market issuer means any party that creates, structures, or organizes a mortgage-backed securities transaction.

§ 34.222 Quality control standards.

Mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, must adopt and maintain policies, practices, procedures, and

control systems to ensure that automated valuation models used in these transactions adhere to quality control standards designed to:

(a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data;

(c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and

(e) Comply with applicable nondiscrimination laws.

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the joint preamble, the Board amends part 225 of chapter II of title 12 of the Code of Federal Regulations, as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

3. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331-3351, 3354, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

4. Add subpart O to part 225 as follows:

Subpart O - Quality Control Standards for Automated Valuation Models Used for Mortgage Lending Purposes

Sec.

(1) Whether to waive an appraisal requirement for a mortgage origination in connection with its potential sale or transfer to a secondary market issuer; or

(2) Structuring, preparing disclosures for, or marketing initial offerings of mortgage-backed securitizations.

Credit decision means a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision whether to extend new or additional credit or change the credit limit on a line of credit.

Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, factory-built housing, or manufactured home, if it is used as a residence. A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home would not be a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this subpart.

Mortgage means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in a consumer's principal dwelling.

Mortgage originator:

(1) Means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain–

(i) Takes a mortgage application;

(ii) Assists a consumer in obtaining or applying to obtain a mortgage; or

(iii) Offers or negotiates terms of a mortgage;

(2) Includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in paragraph (1);

(3) Does not include any person who is–

(i) Not otherwise described in paragraph (1) or (2) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such paragraph; or

(ii) A retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable–

(A) Does not receive compensation or gain for engaging in activities described in paragraph (1) that is in excess of any compensation or gain received in a comparable cash transaction;

(B) Discloses to the consumer–

(*1*) In writing any corporate affiliation with any creditor; and

(*2*) If the retailer has a corporate affiliation with any creditor, at least 1 unaffiliated creditor; and

(C) Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs);

(4) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

(5) Does not include a person that meets all of the following criteria:

(i) The person provides seller financing for the sale of three or fewer properties in any 12-month period to purchasers of such properties, each of which is owned by the person and serves as security for the financing;

(ii) The person has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The person provides seller financing that meets the following requirements:

(A) The financing is fully amortizing;

(B) The financing is one that the person determines in good faith the consumer has a reasonable ability to repay;

(C) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment

limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(6) Does not include a natural person, estate, or trust that meets all of the following criteria:

(i) The natural person, estate, or trust provides seller financing for the sale of only one property in any 12-month period to purchasers of such property, which is owned by the natural person, estate, or trust and serves as security for the financing;

(ii) The natural person, estate, or trust has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The natural person, estate, or trust provides seller financing that meets the following requirements:

(A) The financing has a repayment schedule that does not result in negative amortization;

(B) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(7) Does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a mortgage for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

Person has the meaning given in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

Secondary market issuer means any party that creates, structures, or organizes a mortgage-backed securities transaction.

§ 225.352 Quality control standards.

Mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, must adopt and maintain policies, practices, procedures, and control systems to ensure that automated valuation models used in these transactions adhere to quality control standards designed to:

(a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data;

(c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and

(e) Comply with applicable nondiscrimination laws.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the joint preamble, the FDIC amends 12 CFR part 323 as follows:

PART 323 – APPRAISALS

5. The authority citation for part 323 continues to read as follows:

Authority: 12 U.S.C. 1818, 1819(a) ("Seventh" and "Tenth"), 1831p–1 and 3331 *et seq*.

6. Add subpart C to part 323 to read as follows:

Subpart C-- Quality Control Standards for Automated Valuation Models Used for Mortgage Lending Purposes

Sec.

323.15 Authority, purpose, and scope.
323.16 Definitions.
323.17 Quality control standards

§ 323.15 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to section 1125 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3354, as added by section 1473(q) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376, 2198 (2010)).

(b) *Purpose and scope.* (1) The purpose of this subpart is to implement the quality control standards in section 3354 of title 12 for the use of automated valuation models in determining the value of collateral in connection with making a credit decision or covered securitization determination regarding a mortgage or mortgage-backed security. This subpart applies to entities regulated by the FDIC that are mortgage originators or secondary market issuers.

(2) This subpart does not apply to the use of automated valuation models in:

(i) Monitoring of the quality or performance of mortgages or mortgage-backed securities;

(ii) Reviews of the quality of already completed determinations of the value of collateral; or

(iii) The development of an appraisal by a certified or licensed appraiser.

§ 323.16 Definitions.

As used in this subpart:

Automated valuation model means any computerized model used by mortgage originators and secondary market issuers to determine the value of a consumer's principal dwelling collateralizing a mortgage.

Control systems means the functions (such as internal and external audits, risk review, quality control, and quality assurance) and information systems that are used to measure performance, make decisions about risk, and assess the effectiveness of processes and personnel, including with respect to compliance with statutes and regulations.

Covered securitization determination means a determination regarding:

(1) Whether to waive an appraisal requirement for a mortgage origination in connection with its potential sale or transfer to a secondary market issuer; or

(2) Structuring, preparing disclosures for, or marketing initial offerings of mortgage-backed securitizations.

Credit decision means a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision whether to extend new or additional credit or change the credit limit on a line of credit.

Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, factory-built housing, or manufactured home, if it is used as a residence. A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home would not be a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this subpart.

Mortgage means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in a consumer's principal dwelling.

Mortgage originator:

(1) Means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain–

(i) Takes a mortgage application;

(ii) Assists a consumer in obtaining or applying to obtain a mortgage; or

(iii) Offers or negotiates terms of a mortgage;

(2) Includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in paragraph (1);

(3) Does not include any person who is–

(i) Not otherwise described in paragraph (1) or (2) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such paragraph; or

(ii) A retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable–

(A) Does not receive compensation or gain for engaging in activities described in paragraph (1) that is in excess of any compensation or gain received in a comparable cash transaction;

(B) Discloses to the consumer–

(1) In writing any corporate affiliation with any creditor; and

(2) If the retailer has a corporate affiliation with any creditor, at least 1 unaffiliated creditor; and

(C) Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs);

(4) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

(5) Does not include a person that meets all of the following criteria:

(i) The person provides seller financing for the sale of three or fewer properties in any 12-month period to purchasers of such properties, each of which is owned by the person and serves as security for the financing;

(ii) The person has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The person provides seller financing that meets the following requirements:

(A) The financing is fully amortizing;

(B) The financing is one that the person determines in good faith the consumer has a reasonable ability to repay;

(C) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the

addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(6) Does not include a natural person, estate, or trust that meets all of the following criteria:

(i) The natural person, estate, or trust provides seller financing for the sale of only one property in any 12-month period to purchasers of such property, which is owned by the natural person, estate, or trust and serves as security for the financing;

(ii) The natural person, estate, or trust has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The natural person, estate, or trust provides seller financing that meets the following requirements:

(A) The financing has a repayment schedule that does not result in negative amortization;

(B) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(7) Does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a mortgage for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

Person has the meaning given in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

Secondary market issuer means any party that creates, structures, or organizes a mortgage-backed securities transaction.

§ 323.17 Quality control standards.

Mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, must adopt and maintain policies, practices, procedures, and control systems to ensure that automated valuation models used in these transactions adhere to quality control standards designed to:

(a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data;

(c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and

(e) Comply with applicable nondiscrimination laws.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722 and Part 741

Authority and Issuance

For the reasons set forth in the joint preamble, the NCUA Board amends 12 CFR parts 722 and 741 as follows:

PART 722—APPRAISALS

7. The authority citation for part 722 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, and 3331 *et seq.* Section 722.3(a) is also issued under 15 U.S.C. 1639h.

8. Redesignate §§ 722.1 through 722.7, as subpart A, consisting of §§ 722.101 through 722.107, to read as follows:

Subpart A—Appraisals Generally

Sec.

722.101 Authority, purpose, and scope.
722.102 Definitions.
722.103 Appraisals and written estimates of market value requirements for real estate-related financial transactions.
722.104 Minimum appraisal standards.
722.105 Appraiser independence.
722.106 Professional association membership; competency.
722.107 Enforcement.

9. Add subpart B to read as follows:

Subpart B—Quality Control Standards for Automated Valuation Models Used for Mortgage Lending Purposes

Sec.

722.201 Authority, purpose, and scope.

722.202 Definitions.
722.203 Quality control standards.

Subpart B—Quality Control Standards for Automated Valuation Models Used for Mortgage Lending Purposes

§ 722.201 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to section 1125 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3354, as added by section 1473(q) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1375, 2198 (2010)).

(b) *Purpose and scope.*

(1) The purpose of this subpart is to implement the quality control standards in section 3354 of title 12 for the use of automated valuation models in determining the value of collateral in connection with making a credit decision or covered securitization determination regarding a mortgage or mortgage-backed security. This subpart applies to credit unions insured by the NCUA that are mortgage originators or secondary market issuers.

(2) This subpart does not apply to the use of automated valuation models in:

(i) Monitoring of the quality or performance of mortgages or mortgage-backed securities;

(ii) Reviews of the quality of already completed determinations of the value of collateral; or

(iii) The development of an appraisal by a certified or licensed appraiser.

§ 722.202 Definitions.

As used in this subpart:

Automated valuation model means any computerized model used by mortgage originators and secondary market issuers to determine the value of a consumer's principal dwelling collateralizing a mortgage.

Control systems means the functions (such as internal and external audits, risk review, quality control, and quality assurance) and information systems that are used to measure performance, make decisions about risk, and assess the effectiveness of processes and personnel, including with respect to compliance with statutes and regulations.

Covered securitization determination means a determination regarding:

(1) Whether to waive an appraisal requirement for a mortgage origination in connection with its potential sale or transfer to a secondary market issuer; or

(2) Structuring, preparing disclosures for, or marketing initial offerings of mortgage-backed securitizations.

Credit decision means a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision whether to extend new or additional credit or change the credit limit on a line of credit.

Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, factory-built housing, or manufactured home, if it is used as a residence. A consumer can have only one "principal" dwelling at a time. Thus,

a vacation or other second home would not be a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this subpart.

Mortgage means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in a consumer's principal dwelling.

Mortgage originator:

(1) Means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain–

(i) Takes a mortgage application;

(ii) Assists a consumer in obtaining or applying to obtain a mortgage; or

(iii) Offers or negotiates terms of a mortgage;

(2) Includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in paragraph (1);

(3) Does not include any person who is–

(i) Not otherwise described in paragraph (1) or (2) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such paragraph; or

(ii) A retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable–

(A) Does not receive compensation or gain for engaging in activities described in paragraph (1) that is in excess of any compensation or gain received in a comparable cash transaction;

(B) Discloses to the consumer–

(1) In writing any corporate affiliation with any creditor; and

(2) If the retailer has a corporate affiliation with any creditor, at least 1 unaffiliated creditor; and

(C) Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs);

(4) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

(5) Does not include a person that meets all of the following criteria:

(i) The person provides seller financing for the sale of three or fewer properties in any 12-month period to purchasers of such properties, each of which is owned by the person and serves as security for the financing;

(ii) The person has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The person provides seller financing that meets the following requirements:

(A) The financing is fully amortizing;

(B) The financing is one that the person determines in good faith the consumer has a reasonable ability to repay;

(C) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(6) Does not include a natural person, estate, or trust that meets all of the following criteria:

(i) The natural person, estate, or trust provides seller financing for the sale of only one property in any 12-month period to purchasers of such property, which is owned by the natural person, estate, or trust and serves as security for the financing;

(ii) The natural person, estate, or trust has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The natural person, estate, or trust provides seller financing that meets the following requirements:

(A) The financing has a repayment schedule that does not result in negative amortization;

(B) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(7) Does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a mortgage for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

Person has the meaning given in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

Secondary market issuer means any party that creates, structures, or organizes a mortgage-backed securities transaction.

§ 722.203 Quality control standards.

Mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, must adopt and maintain policies, practices, procedures, and control systems to ensure that automated valuation models used in these transactions adhere to quality control standards designed to:

(a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data;

(c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and

(e) Comply with applicable nondiscrimination laws.

PART 741—REQUIREMENTS FOR INSURANCE

10. The authority citation for part 741 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781-1790, 1790d, 3331 *et seq*; 31 U.S.C. 3717.

11. Revise § 741.203(b) to read as follows:

§ 741.203 Minimum loan policy requirements.

* * * * *

(b) Adhere to the requirements stated in part 722 of this chapter.

of this section applies to any mortgage, as defined in paragraph (i)(2)(v), secured by the consumer's principal dwelling, even if the mortgage is primarily for business, commercial, agricultural, or organizational purposes.

*   *   *   *   *

(i) *Quality Control Standards for Automated Valuation Models*—(1) *Scope.* The purpose of this paragraph (i) is to implement quality control standards for the use of automated valuation models in determining the value of collateral in connection with making a credit decision or covered securitization determination regarding a mortgage or mortgage-backed security. This paragraph (i) applies to the use of automated valuation models by any mortgage originator or secondary market issuer, other than either a financial institution as defined in 12 U.S.C. 3350(7), or a subsidiary owned and controlled by such a financial institution and regulated by one of the Federal financial institutions regulatory agencies as defined in 12 U.S.C. 3350(6). This paragraph (i) does not apply to the use of automated valuation models in:

(i) Monitoring of the quality or performance of mortgages or mortgage-backed securities;

(ii) Reviews of the quality of already completed determinations of the value of collateral; or

(iii) The development of an appraisal by a certified or licensed appraiser as defined in § 1026.35(c)(1)(i).

(2) *Definitions*. As used in this paragraph (i):

(i) *Automated valuation model* means any computerized model used by mortgage originators and secondary market issuers to determine the value of a consumer's principal dwelling collateralizing a mortgage.

(ii) *Control systems* means the functions (such as internal and external audits, risk review, quality control, and quality assurance) and information systems that are used to measure performance, make decisions about risk, and assess the effectiveness of processes and personnel, including with respect to compliance with statutes and regulations.

(iii) *Covered securitization determination* means a determination regarding:

(A) Whether to waive an appraisal requirement for a mortgage origination in connection with its potential sale or transfer to a secondary market issuer; or

(B) Structuring, preparing disclosures for, or marketing initial offerings of mortgage-backed securitizations.

(iv) *Credit decision* means a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision whether to extend new or additional credit or change the credit limit on a line of credit.

(v) *Mortgage* means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in a consumer's principal dwelling.

(vi) *Mortgage originator*:

(A) Means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain—

(*1*) Takes a mortgage application;

(*2*) Assists a consumer in obtaining or applying to obtain a mortgage; or

(*3*) Offers or negotiates terms of a mortgage;

(B) Includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in paragraph (A);

(C) Does not include any person who is not otherwise described in paragraph (A) or (B) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such paragraph;

(D) Does not include a retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable—

(*1*) Does not receive compensation or gain for engaging in activities described in paragraph (A) that is in excess of any compensation or gain received in a comparable cash transaction;

(*2*) Discloses to the consumer in writing any corporate affiliation with any creditor and, if the retailer has a corporate affiliation with any creditor, at least 1 unaffiliated creditor; and

(*3*) Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs);

(E) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

(F) Does not include a person that meets the criteria for seller financers provided in § 1026.36(a)(4) & (5); and

(G) Does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a mortgage for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

(vii) *Secondary market issuer* means any party that creates, structures, or organizes a mortgage-backed securities transaction.

(3) *Quality control standards.* Mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, must adopt and maintain policies, practices, procedures, and control systems to ensure that automated valuation models used in these transactions adhere to quality control standards designed to:

(i) Ensure a high level of confidence in the estimates produced;

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

Authority and Issuance

For the reasons stated in the joint preamble, the Federal Housing Finance Agency amends 12 CFR part 1222, of chapter 12 of title 12 of the Code of Federal Regulations as follows:

PART 1222—APPRAISALS

18. The authority citation for part 1222 is revised to read as follows:

Authority: 12 U.S.C. 3354(b); 12 U.S.C. 4501 *et seq.*; 12 U.S.C. 4526; and 15 U.S.C. 1639h.

19. Add subpart C to part 1222 to read as follows:

Subpart C—Quality Control Standards for Automated Valuation Models

Sec.

1222.27 Authority, purpose, and scope.
1222.28 Definitions.
1222.29 Quality control standards.

§ 1222. 27 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Federal Housing Finance Agency pursuant to 12 U.S.C. 4501 *et seq.*, 12 U.S.C. 4526, section 1125 of FIRREA, 12 U.S.C. 3354, as added by section 1473(q) of the Dodd-Frank Act.

(b) *Purpose and scope.* (1) The purpose of this subpart is to implement the quality control standards in section 3354 of title 12 for the use of automated valuation models in

determining the value of collateral in connection with making a credit decision or covered securitization determination regarding a mortgage or mortgage-backed security. This subpart applies to entities regulated by the Federal Housing Finance Agency.

(2) This subpart does not apply to the use of automated valuation models in:

(i) Monitoring of the quality or performance of mortgages or mortgage-backed securities;

(ii) Reviews of the quality of already completed determinations of the value of collateral; or

(iii) The development of an appraisal by a certified or licensed appraiser.

§ 1222.28 Definitions.

As used in this subpart:

Automated valuation model means any computerized model used by mortgage originators and secondary market issuers to determine the value of a consumer's principal dwelling collateralizing a mortgage.

Control systems means the functions (such as internal and external audits, risk review, quality control, and quality assurance) and information systems that are used to measure performance, make decisions about risk, and assess the effectiveness of processes and personnel, including with respect to compliance with statutes and regulations.

Covered securitization determination means a determination regarding:

(1) Whether to waive an appraisal requirement for a mortgage origination in connection with its potential sale or transfer to a secondary market issuer; or

(2) Structuring, preparing disclosures for, or marketing initial offerings of mortgage-backed securitizations.

Credit decision means a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision whether to extend new or additional credit or change the credit limit on a line of credit.

Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, factory-built housing, or manufactured home, if it is used as a residence. A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home would not be a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this subpart.

Mortgage means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in a consumer's principal dwelling.

Mortgage originator:

(1) Means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain–

(i) Takes a mortgage application;

(ii) Assists a consumer in obtaining or applying to obtain a mortgage; or

(iii) Offers or negotiates terms of a mortgage;

(2) Includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in paragraph (1);

(3) Does not include any person who is–

(i) Not otherwise described in paragraph (1) or (2) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such paragraph; or

(ii) A retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable–

(A) Does not receive compensation or gain for engaging in activities described in paragraph (1) that is in excess of any compensation or gain received in a comparable cash transaction;

(B) Discloses to the consumer–

(*1*) In writing any corporate affiliation with any creditor; and

(*2*) If the retailer has a corporate affiliation with any creditor, at least one unaffiliated creditor; and

(C) Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs);

(4) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

(5) Does not include a person that meets all of the following criteria:

(i) The person provides seller financing for the sale of three or fewer properties in any 12-month period to purchasers of such properties, each of which is owned by the person and serves as security for the financing;

(ii) The person has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The person provides seller financing that meets the following requirements:

(A) The financing is fully amortizing;

(B) The financing is one that the person determines in good faith the consumer has a reasonable ability to repay;

(C) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment

limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(6) Does not include a natural person, estate, or trust that meets all of the following criteria:

(i) The natural person, estate, or trust provides seller financing for the sale of only one property in any 12-month period to purchasers of such property, which is owned by the natural person, estate, or trust and serves as security for the financing;

(ii) The natural person, estate, or trust has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The natural person, estate, or trust provides seller financing that meets the following requirements:

(A) The financing has a repayment schedule that does not result in negative amortization;

(B) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(7) Does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a mortgage for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

Person has the meaning given in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

Secondary market issuer means any party that creates, structures, or organizes a mortgage-backed securities transaction.

§ 1222.29 Quality control standards.

Mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, must adopt and maintain policies, practices, procedures, and control systems to ensure that automated valuation models used in these transactions adhere to quality control standards designed to:

(a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data;

(c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and

(e) Comply with applicable nondiscrimination laws.

Michael J. Hsu,
Acting Comptroller of the Currency.

By order of the Board Governors of the Federal Reserve System.
Ann E, Misback,
Secretary of the Board.

Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC, on June 20, 2024.
James P. Sheesley,
Assistant Executive Secretary.

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

Rohit Chopra,
Director, Consumer Financial Protection Bureau.

Sandra L. Thompson,
Director, Federal Housing Finance Agency.

BILLING CODES:
4810-33-P
6210–01–P
6714–01–P
7535-01-P
4810–AM–P
8070-01-P