



August 22, 2023

The Honorable Sandra L. Thompson
Director
Federal Housing Finance Administration (FHFA)

The Honorable Martin J. Gruenberg
Chairman, Board of Directors
Federal Deposit Insurance Corporation (FDIC)

The Honorable Michael J. Hsu
Acting Comptroller
Office of the Comptroller of the Currency (OCC)

The Honorable Jerome Powell
Chairman, Board of Governors
Federal Reserve System (FED)

The Honorable Todd M. Harper
Chairman
National Credit Union Administration (NCUA)

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau (CFPB)

Dear Director Thompson, Chairman Gruenberg, Acting Comptroller Hsu, Chairman Powell, Director Chopra, and Chairman Harper:


On behalf of the more than 1.5 million members of the National Association of REALTORS® (NAR), we thank you for your efforts to implement the quality control standards for valuation models mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The use of automated valuation models (AVMs) has grown dramatically over the last two decades and they are regularly used in credit, capital, and insurance decision-making. A consistent and creditable framework that is flexible and broadly applied is important for maintaining a consistent standard of safety and soundness across the housing finance ecosystem.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,200 local associations or boards, and 54 state and territory associations of REALTORS®. NAR represents a wide variety of housing industry professionals, including approximately 25,000 licensed and certified appraisers, committed to the development and preservation of the nation's housing stock, along with its availability to the widest range of potential homebuyers.

Homeownership is a central part of the American dream, and accurate and credible valuations are critical to attaining mortgage financing. The growing use of AVMs to define values necessitates robust standard setting and oversight of their application. Achieving a low cost, robust, and durable cost of funding is key to making that American dream affordable for all credit worthy homebuyers.

Standardizing the Regulation of AVMs

The bank regulators currently provide guidance on AVMs in Appendix B to the Interagency Appraisal and Evaluation Guidelines (Guidelines) as well as Model Risk Guidance from the FDIC, OCC, and Fed. The FHFA has its own Model Risk Management Guidance. Thus, this proposed rule does not replace this guidance, but acts to codify a standard across all regulators.



The rule would set specific quality control factors, but not define how AVM users accomplish the quality control. This flexibility is intended to allow for different business models and for innovation. The factors would require that AVM users:

- a. Ensure a high level of confidence in the estimates produced.
- b. Protect against the manipulation of data.
- c. Avoid conflicts of interest.
- d. Require random sample testing and reviews; and
- e. Comply with applicable nondiscrimination laws.

The proposal would apply to determinations of value for making credit decisions (originate, modify, terminate, or make other changes to a mortgage) and securitization. It would also apply to appraisal waivers offered by secondary market institutions. It would require compliance for other non-appraisal “valuations” required by regulators. The guidance applies to banks, credit unions, and GSEs and may apply in valuations on lower-priced properties exempt from traditional appraisals.

Recommendations on the Proposed Rule

While REALTORS® believe that a full appraisal is always the best estimation of value, NAR agrees with the approach that the joint regulators have taken in implementing the quality control standards for valuation models mandated by Dodd-Frank Act. The AVM industry has increased dramatically in recent years and is likely to deepen in the years to come as various counterparties in the primary and secondary markets utilize them to value mortgage assets. Furthermore, new technologies including AI will be brought to bear. Because of the dynamism of this industry, a more proscriptive rule may not adjust to the changing industry developments. However, the industry would benefit from thoughtful guidance on how the rules would apply to specific technologies or applications.

In response to the proposed rule and questions, NAR has the following recommendations:


Question 8. What would be the advantages and disadvantages of exempting federally backed securitizations from the AVM quality control standards?

- A) Though the GSEs are not explicitly federally backed, it is important that they be covered by the proposed rule. The Enterprises finance more than half of all purchase originations and that share may grow as depository lenders retrench in the face of rising mortgage rates and weaker portfolio values. The internalization of valuation risk by the GSEs poses a systemic threat to the housing finance ecosystem that could undermine investor confidence if ever questioned, especially if they exit conservatorship without an explicit federal backstop. Consequently, appropriate oversight of the Enterprises' AVMs is critical to ensuring they support both their charter duties and liquidity.

Question 10. How often are AVMs used by certified or licensed appraisers to develop appraisals?

- A) While NAR does not survey its appraiser members for their use of AVM estimates as a litmus test for their analysis, anecdotes suggest that usage is low and infrequent. According to a few member responses, publicly available AVMs vary widely in accuracy, while higher quality AVMs are often cost prohibitive to utilize.

Question 11. What would be the advantages and disadvantages of excluding AVMs used by certified or licensed appraisers in developing appraisal valuations?



- A) In some instances, appraisers may use an AVM estimate as a “sniff test” to check for any obvious errors. Imposing compliance costs on appraisers would disincentivize what might be a valuable tool for them in the quality control process. Likewise, the proposed rule does not obligate compliance when lenders use AVMs for verification purposes. Finally, the AVMs used by appraisers are likely the same offered by third parties to originators and thus are exposed to market review.

Question 19. What, if any, other decisions should the agencies include within the definition of credit decision?

- A) The proposed rule discusses assumptions of mortgages during the section on servicing. However, it would benefit the industry to make it clear earlier in the rule that assumptions are a credit event and would fall under the rule. Use of assumptions may rise in the future, so the market would benefit from that clarity.

Additional topics

AVMs are dependent on both the quality and execution of modeling techniques used to create them as well as the data used to build and update them. Different industry players will have access to varying quality of data. Regulators should account for this in their guidance and recommendations as well as in encouraging the data ecosystem for this industry. Differences in data quality could result in difference decisions in the primary and secondary market or between other counter parties. All parties benefit from a robust and consistent data source.

In addition, like appraisal practices, there exist little legal clarity around practices in the AVM industry that may violate the fair housing act. Guidance from HUD or legal president would help to fill this voice.

Finally, consumers historically relied on the appraisal as a benchmark for the appropriateness of their purchase offer and to estimate their ability to recoup their expenses when they sell. With AVMs more frequently used to offer appraisal waivers, consumers are left without an important safeguard. A waiver may alleviate the valuation risk to the originator, but it does not do so for the consumer. Furthermore, the equal credit opportunity act (ECOA) requires creditors to provide consumers with any a copy of an appraisal or valuation connected to the application for a loan based on a residential property. ECOA states that the term valuation includes, “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 government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.”¹ Because the GSEs are providing waivers to this important consumer protection as recognized in ECOA, the GSEs should be obligated to provide any valuation they base a waiver on to the consumer since it is used in the credit decision by the originator via the originator’s choice to utilize the waiver.

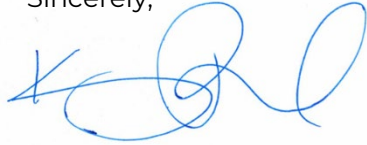
Conclusions

NAR once again thanks you for your efforts to implement standard rules for regulation of automated valuation models. AVMs are now a commonly used too in the industry. However, there is variation in the methods and data they employ and that will continue to change with innovation. The proposed will help to clarify the obligations of AVMs users

¹ <http://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title15-chapter41-subchapter4&edition=prelim>

under the law. We look forward to working with the FHFA, FDIC, OCC, NCUA, Fed, and CFPB to implement the proposed rule. If you have any questions or comments, please feel free to reach out to Ken Fears, NAR's Director of Conventional Finance and Valuation, at KFears@NAR.REALTOR.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kenny Parcell', is written over a light blue rectangular background.

Kenny Parcell
2023 President, National Association of REALTORS®