



RISK ADVISORY

# Regulatory Compliance Digest

April/May 2024

The Regulatory Compliance Digest's April/May issue provides a summary of the latest updates from FFIEC, FinCEN, CFPB, FDIC and federal bank regulatory agencies. This issue also includes hot topics and the latest developments in the regulatory compliance space.

The [Regulatory Compliance Digest](#) is intended to keep you informed of regulatory changes in advance of their effective date, so your institution can evaluate changes or updates to necessary policies, procedures and processes in place to be compliant at the time of enactment.



## Guidance on Fair Lending and Appraisal Bias

Valuation discrimination or bias can cause consumer harm, lead to violations of law and have a detrimental impact on communities. In addition, valuation discrimination or bias could result in deficient and unreliable collateral valuations that undermine an institution's credit decisions and negatively impact its safety and soundness. Recently, questions have been raised concerning appraisal bias and the controls that can be implemented to ensure that appraisal bias is being considered as part of the institution's compliance and fair lending programs.

Over the past few years, the joint agencies (FRB, CFPB, FDIC, NCUA and OCC) have provided guidance for consideration as institutions endeavor to enhance their fair lending programs and guard against discriminatory practices. The following provides a good roadmap to guide us through the process.

### Interagency Guidance on Reconsiderations of Value (ROV) of Residential Real Estate Valuations

On June 8, 2023, the joint agencies issued proposed [Interagency Guidance on Reconsiderations of Value \(ROV\) of Residential Real Estate Valuations](#) in the Federal Register for public comment. Reconsiderations of Value (ROVs) are requests from financial institutions to appraisers or other preparers of valuation reports to re-assess the value of residential real estate. An ROV may be warranted if a consumer provides information to an institution about potential deficiencies or other information that may affect the estimated value.

The proposal highlights the risks associated with deficient residential real estate valuations, particularly those that can contain errors, omissions, or discrimination that affect the value conclusion. Additionally, the proposal describes how financial institutions may incorporate effective ROV processes into established appraisal and evaluation programs, consistent with safety and soundness standards and all applicable laws and regulations, including those designed to protect consumers.

The proposal set forth the following examples for consideration in developing risk-based ROV-related policies, procedures, control systems, and complaint processes that identify, address, and mitigate the risk of deficient valuations, including valuations that involve prohibited discrimination:

- ▶ Consider ROVs as a possible resolution for consumer complaints related to residential property valuations.
- ▶ Consider whether any information or other process requirements related to a consumer's request for a financial institution to initiate an ROV create unreasonable barriers or discourage consumers from requesting an ROV.
- ▶ Establish a process that provides for the identification, management, analysis, escalation, and resolution of valuation related complaints across all relevant lines of business, from various channels and sources (such as letters, phone calls, in person, regulators, third-party service providers, emails, and social media).
- ▶ Establish a process to inform consumers how to raise concerns about the valuation sufficiently early enough in the underwriting process for any errors or issues to be resolved before a final credit decision is made. This may include suggesting to consumers the type of information they may provide when communicating with the financial institution about potential valuation deficiencies.
- ▶ Identify stakeholders and clearly outline each business unit's roles and responsibilities for processing an ROV request (e.g., loan origination, processing, underwriting, collateral valuation, compliance, customer experience or complaints).
- ▶ Establish risk-based ROV systems that route the request to the appropriate business unit (e.g., ROV requests that allege discrimination could be routed to the appropriate compliance, legal, and appraisal review staff that have the requisite skills and authority to research and resolve the request).
- ▶ Establish standardized processes to increase the consistency of consideration of requests for ROVs.
- ▶ Ensure relevant lending and valuation related staff, inclusive of third parties (e.g., appraisal management companies, fee-appraisers, mortgage brokers, and mortgage servicers) are trained to identify deficiencies (inclusive of prohibited discriminatory practices) through the valuation review process.

### Statement of Principles Related to Valuation Discrimination and Bias

On February 12, 2024, the [FFIEC issued a statement on examination principles](#) related to valuation discrimination and bias to consider in their consumer compliance and safety and soundness examinations in residential lending.

The principles aid the regulatory agencies in assessing whether their supervised institutions' compliance and risk management practices are appropriate to identify and mitigate discrimination or bias in their residential property valuation practices.

Not surprising, the principles focus on the strength of Board and management oversight and the Compliance Management System pillars:

- ▶ Board and senior management oversight: Evaluation of whether the board of directors and management, as appropriate for their respective roles and responsibilities, ensure that the institution implements and maintains compliance management systems (including third-party oversight) commensurate with the institution's residential real estate lending risk profile, including information provided to the board that communicates the strength of the consumer compliance program.
  - Third-party risk management: Evaluation of the institution's oversight of residential real estate valuation third parties' consumer compliance-related policies, procedures, internal controls, and training. Evaluation of an institution's due diligence and ongoing monitoring of third parties, including persons or entities that prepare valuation reports, third-party appraisers, and appraisal management companies, to assess compliance with consumer protection laws and regulations, including anti-discrimination laws.
- ▶ Consumer compliance program: Assessment of the institution's policies and procedures, training, monitoring, and/or audit practices; the institution's consumer complaint response systems or processes; and the institution's ability to identify and resolve incidences of potential valuation discrimination.
  - Policies and procedures: Assessment of the institution's collateral valuation review function for identifying potentially discriminatory valuation practices or results.
  - Training program: Assessment of the institution's training programs to ensure that they appropriately address identification of potential discrimination in residential real estate lending and collateral valuation programs, whether internally identified or from consumer inquiries or complaints.
  - Monitoring and/or audit: Assessment of the institution's adherence to its policies and procedures designed to identify and address potential discrimination.

- Consumer complaints: Evaluation of the institution's systems or processes for reviewing, documenting, tracking, addressing, monitoring, and handling collateral valuation complaints, including those that allege potential discrimination. This includes handling complaints from various channels and sources (such as letters, phone calls, in person, regulators, third-party service providers, emails, and social media).

As the topics of fair lending and appraisal bias continue to evolve, we will keep you informed.

## FinCEN Renews Real Estate Geographic Targeting Orders

On April 17, 2024, [FinCEN announced the renewal of its Geographic Targeting Orders \(GTOs\)](#) that require U.S. title insurance companies to identify the natural persons behind shell companies used in non-financed purchases of residential real estate.

The [GTOs](#) are effective beginning April 19, 2024, and ending on October 15, 2024. The GTOs continue to provide valuable data on the purchase of residential real estate by persons possibly involved in various illicit enterprises. Renewing the GTOs will further assist in tracking illicit funds and other criminal or illicit activity, as well as continuing to inform FinCEN's regulatory efforts in this sector. FinCEN renewed the GTOs that cover certain counties and major U.S. metropolitan areas in California, Colorado, Connecticut, Florida, Hawaii, Illinois, Maryland, Massachusetts, Nevada, New York, Texas, Washington, Virginia, and the District of Columbia.

The purchase amount threshold remains \$300,000 for each covered metropolitan area, with the exception of the City and County of Baltimore, where the purchase threshold is \$50,000

## Supervisory Highlights: Consumer Reporting Companies and Furnishers

On April 8, 2024, the [CFPB published an edition of Supervisory Highlights](#) to share key findings from recent examinations about continuing accuracy problems in the credit reporting system. The CFPB found consumer reporting companies failed to ensure the accuracy of credit reports, including by failing to exclude information resulting from alleged identity theft or human trafficking. The CFPB also found furnishers – companies that provide information to consumer reporting companies – failed to correct false or fraudulent information sent to consumer reporting companies.

## FDIC Consumer Compliance Supervisory Highlights – March 2024 Edition

On March 29, 2024, the [FDIC issued its current edition of Consumer Compliance Supervisory Highlights](#).

Highlights include:

- ▶ A description of the most frequently cited violations and other consumer compliance examination observations;
- ▶ Information on regulatory developments;
- ▶ A summary of consumer compliance resources and information available to financial institutions; and
- ▶ An overview of consumer complaint trends.

## Agencies Extend Applicability Date of Certain Provisions of their Community Reinvestment Act Final Rule

On March 21, 2024, the [Federal bank regulatory agencies issued an interim final rule](#) that extends the applicability date of certain provisions in their Community Reinvestment Act (CRA) final rule issued in October 2023. The agencies also requested comment on the extension.

On April 4, 2024, it was announced the Federal courts in Texas have staid the implementation of the CRA. Stay tuned for the latest regulatory updates.

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## Collecting Identifying Information Required Under the Customer Identification Program (CIP) Rule

On March 28, 2024, the [FDIC issued an advisory letter](#) to reemphasize the requirements under the Customer Identification Program (CIP) Rule as it relates to collecting identifying information from customers. This advisory reminds institutions of the information required to be collected from the customer prior to account opening.

### Have Questions?

If you would like to discuss any compliance matters for your institution, please contact your Cherry Bekaert advisor or reach out to the Firm's [Risk Advisory](#) regulatory compliance team today.

### For more information please contact:



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