DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Part 34
[Docket ID OCC-2023-0007]

FEDERAL RESERVE SYSTEM
12 CFR Part 225
[Docket No. OP-1809]

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 323
RIN 3064-ZA36

NATIONAL CREDIT UNION ADMINISTRATION
12 CFR Part 722
[Docket ID NCUA-2023-0061]

CONSUMER FINANCIAL PROTECTION BUREAU
12 CFR Chapter X
[Docket No. CFPB-2023-0033]

Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations

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

ACTION: Final interagency guidance.

SUMMARY: The Board, CFPB, FDIC, NCUA, and OCC (together, the agencies) are issuing final guidance that highlights risks associated with deficient residential real estate valuations and describes how financial institutions may incorporate reconsiderations of value (ROV) processes and controls into established risk management functions. The final guidance also provides examples of policies and procedures that a financial

institution may choose to implement to help identify, address, and mitigate the risk of discrimination impacting residential real estate valuations.

DATES: The guidance is final as of **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

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I. Introduction

The agencies are issuing final interagency guidance (final guidance) on ROVs of residential real estate valuations.[1] The agencies considered the comments received on the proposed guidance, and as a result, made several edits to the final guidance, including clarifying the guidance's scope. The agencies are finalizing the guidance largely as proposed. This guidance is intended to highlight risks associated with deficient residential real estate valuations, describe how financial institutions may incorporate ROV processes and controls into risk management functions, and provide examples of ROV policies and procedures that institutions may choose to implement. Collateral valuations, including appraisals,[2] are important to the integrity of the residential real estate lending process. Deficient collateral valuations can contain inaccuracies due to

[1] This final guidance is supervisory guidance that does not have the force and effect of law or regulation and does not impose any new requirements on supervised institutions. *See* 12 CFR part 4, subpart F, appendix A (OCC); 12 CFR part 262, appendix A (Board); 12 CFR part 302, appendix A (FDIC); 12 CFR part 1074, appendix A (CFPB); 12 CFR part 791, subpart D, appendix A (NCUA).

[2] Appraisal means "a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information." 12 CFR 34.42(a) (OCC); 12 CFR 323.2(a) (FDIC); 12 CFR 225.62(a) (Board); 12 CFR 722.2 (NCUA).

errors, omissions, or discrimination[3] that affect the value conclusion and can result in either overvaluing or undervaluing real estate collateral. The Board, FDIC, NCUA, and OCC have previously issued guidance that describes actions a financial institution may take to correct deficiencies identified in collateral valuations.[4] These actions include ordering a second appraisal or evaluation or resolving the deficiency through the original appraiser or preparer of the evaluation.[5]

Prior to the efforts to adopt this joint guidance, the agencies had not, collectively, issued guidance specific to ROV processes. The agencies had received questions and comments from financial institutions and other industry stakeholders on ROVs. Stakeholders highlighted the uncertainty in the industry on how ROVs intersect with appraisal independence requirements and compliance with Federal consumer protection laws, including those related to nondiscrimination. As such, the final guidance addresses some of the questions raised by stakeholders. For purposes of the final guidance, an ROV is a request from the financial institution to the appraiser or other preparer of the valuation report to reassess the report based upon potential deficiencies or other information that may affect the value conclusion.[6]

II. Discussion of Comments on the Proposed Guidance

On July 21, 2023, the agencies published for comment proposed guidance on ROVs of residential real estate valuations (proposal).[7] The 60-day comment period

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[3] For the purposes of this guidance, "discrimination" is prohibited discrimination based on protected characteristics in the residential property valuation process. For these purposes, "valuation" includes appraisals, evaluations, and other means to determine the value of residential property.
[4] *See* Interagency Appraisal and Evaluation Guidelines, 75 FR 77450 (December 10, 2010).
[5] The NCUA uses the term "written estimate of market value" in place of the term "evaluation." *See* 12 CFR 722.3.
[6] ROVs may arise from a consumer requesting a financial institution to reexamine a valuation.
[7] "Proposed Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations," 88 FR 47071 (July 21, 2023).

ended on September 19, 2023. The agencies invited comment on all aspects of the proposed guidance from all interested parties. In particular, the agencies requested comment on the following: 1) to what extent the proposed guidance describes suitable considerations for a financial institution to take into account in assessing and potentially modifying its current ROV policies and procedures; 2) suggestions for ROV model forms or model policies and procedures, if any, that would be helpful for the agencies to recommend; 3) suggestions for other guidance that may be helpful to financial institutions concerning the development of ROV processes; and 4) to what extent, if any, the proposed ROV guidance conflicts with, duplicates, or complements the existing Interagency Appraisal and Evaluation Guidelines (Guidelines) or a financial institution's policies and procedures to implement those Guidelines. The agencies collectively received more than 45 unique comment letters from banking organizations, real estate companies, trade associations, nonprofits, The Appraisal Foundation (TAF),[8] an automated valuation model (AVM) developer, loan officers, appraisers, and other individuals.

A. General Comments

In general, many commenters supported the agencies' issuance of interagency guidance specific to ROV processes. Some of these commenters agreed with the proposal's focus on the importance of credible collateral valuations, compliance with

[8] TAF is a not-for-profit corporation under the laws of Illinois, which sets appraisal standards and appraiser qualifications in connection with federally related transactions. *See* 12 U.S.C. 3331 *et seq*. and *https://appraisalfoundation.org/imis*. As contemplated by title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Board, FDIC, NCUA, and the OCC have promulgated regulations requiring that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of TAF. *See* 12 U.S.C. 3339; 12 CFR part 225 (Board); 12 CFR part 323 (FDIC); 12 CFR part 722 (NCUA); 12 CFR part 34 (OCC).

nondiscrimination laws, and safeguarding appraiser independence. Other commenters asserted that additional clarity in the guidance is necessary and provided recommendations. A few commenters, including certain credit unions, trade associations, and appraisers, opposed the guidance or aspects of the guidance on the grounds that it would be overly burdensome for institutions or place undue pressure on appraisers which could lead to overvaluation.

Commenters expressed mixed views on whether ROV processes should be uniform across all institutions. Some commenters recommended adding more prescriptive elements to the guidance, while others asserted that the guidance should be broad and flexible, as proposed. Some commenters believed that many of the proposal's policies and procedures should be mandatory.

In response to comments received, the agencies made several clarifying edits to the final guidance, including clearly stating the scope of transactions covered by the guidance. The agencies underscore that supervisory guidance does not have the force and effect of law or regulation and does not impose any new requirements on supervised institutions.[9] The guidance is intended to provide a flexible, risk-based approach to ROV processes that institutions can adjust to their unique profile. The justification for and benefits of the agencies' approach, and the agencies' consideration of specific comments, are discussed further below.

[9] *See* authorities cited *supra* note 1.

B. Terminology & Scope

Commenters offered views on certain terms used in the proposal, including the terms "ROV," "comparable sale," and "specific and verifiable information." Commenters also expressed views on the scope of transactions covered by the guidance.

i. Description of the Term "ROV"

One commenter requested that the agencies revise the definition of "ROV" to remove the language "that may affect the value conclusion."[10] This commenter expressed concern that including this language could result in a lender exerting pressure on an appraiser to change a value that does not satisfy the lender. Another commenter asserted that the proposal's use of the term "ROV" might be too limiting as it focuses on "value" and suggested the broader term "Appraisal Reconsideration" instead. A commenter suggested that the definition of "ROV" be amended to provide that an agent of the institution, such as an appraisal management company (AMC), could initiate an ROV request.

Alternative descriptions suggested by commenters could result in overly broad or narrow descriptions and would not capture the appropriate types of requests. Therefore, the agencies believe the description of the term "ROV" in the proposed guidance captures the intended scope and the final guidance does not change that description. The agencies decline to incorporate the term "Appraisal Reconsideration" into the final guidance, as it implies that appraisals are the sole type of valuation subject to ROVs.

[10] The proposal described the term "ROV" as a "request from the financial institution to the appraiser or other preparer of the valuation report to reassess the report based upon potential deficiencies or other information that may affect the value conclusion." 88 FR 47071, 47073 (July 21, 2023).

ii. Description of the Terms "Comparable Sale" and "Specific and Verifiable Information"

One commenter requested that the agencies clearly define the term "comparable sale"[11] in the context of the content of an ROV request, which may include comparable properties not previously identified. A commenter recommended that the agencies clarify the term "specific and verifiable information" in connection with a consumer providing specific and verifiable information that may not have been available or considered when the initial valuation and review were performed. The same commenter requested that the agencies provide clear examples of both valid and invalid data in the context of consumer-provided "specific and verifiable information."

The agencies considered the comments regarding "comparable sale" and "specific and verifiable information." Under the provisions of title XI of the FIRREA, the Appraisal Standards Board (ASB) of TAF sets appraisal standards in connection with federally related transactions, which it does through the development and publication of the Uniform Standards of Professional Appraisal Practice (USPAP).[12] What constitutes a "comparable sale" and "specific and verifiable information" fall within the purview of the ASB and USPAP. Therefore, the agencies decline to provide definitions or examples related to those terms in the final guidance.

iii. Scope of Transactions Covered by the Final Guidance

Some commenters questioned the scope of the term "residential real estate" in connection with the types of transactions that the guidance covers. One commenter

[11] The agencies note that the final guidance, like the proposed guidance, references "comparable properties" and "comparable properties not previously identified," instead of "comparable sales."
[12] *See* 12 U.S.C. 3331 *et seq*.

asserted that "residential real estate" likely encompassed single-unit dwellings like standalone homes, condos, co-ops, and townhouses. Another commenter stated that their interpretation of the proposal's scope was that it included loans for properties that borrowers plan to live in as their primary residence.

Commenters made specific suggestions regarding the type of loans the guidance should cover. In particular, a commenter suggested that the guidance should only extend to loans secured by a single 1-to-4 family residential property, excluding multi-family dwellings. Another commenter recommended that loans to small businesses, corporations, partnerships, and trusts should be covered by the guidance, because the Equal Credit Opportunity Act (ECOA) applies to any extension of credit to those entities. Finally, a commenter asserted that the guidance should cover all types of real estate-related credit, including multi-family and commercial.

The agencies considered the comments regarding the scope of "residential real estate," as well as the comments in favor of expansion of the guidance's scope. In response, the agencies revised the guidance to clearly state that the scope of the final guidance is intended to be limited to real estate-related financial transactions that are secured by a single 1-to-4 family residential property.[13] The considerations and principles included in the guidance are targeted towards single 1-to-4 family residential transactions and thus are best suited for those types of transactions. Other types of transactions may involve different considerations.

[13] *See* 12 CFR 34.42(k) (OCC); 12 CFR 323.2(k) (FDIC); 12 CFR 225.62(k) (Board); 12 CFR 722.2 (NCUA).

C. Comments on Prescriptive versus Principles-Based Approach

Some commenters recommended that the final guidance take a more prescriptive approach, suggesting specific amendments to the guidance, urging uniformity and standardization of ROV processes across institutions, and endorsing the development of model forms, checklists, and policies. Other commenters supported the proposal's more flexible and principles-based approach to the guidance.

i. Specific Suggestions for Added Prescriptiveness

Many commenters made specific suggestions that the agencies provide more granularity and prescriptiveness in the guidance in particular areas. With regard to second appraisals, one commenter recommended that the guidance should outline the circumstances under which a financial institution must request a second appraisal. One commenter asserted that the guidance should provide examples of when, if ever, it is reasonable to pass on the cost of a second appraisal to the consumer. A commenter recommended that, if the agencies determined that it was never acceptable to pass on the cost of a second appraisal to the consumer, the guidance should clearly state that, and should also clarify to whom the fee could be assessed. Another commenter more generally requested clear guidelines on handling second appraisals.

With regard to data submitted with an ROV request, commenters requested that the guidance define what types of data or items a consumer should or should not include. For example, one commenter suggested that alleged appraiser remarks should not be included. Another commenter requested that the guidance specify that data provided by consumers with the ROV request should not include separate valuations for the same property (*e.g.*, a separate appraisal or evaluation). A commenter recommended that information that was unavailable as of the appraisal's effective date should not be included with the ROV request. Finally, a commenter requested specificity on which alternate market data should be provided with an ROV request and whether it should be limited to sales that closed prior to the date of the appraisal.

Other commenters focused on adding detail to the guidance related to consumer and appraiser education and communication. One commenter requested that the agencies provide additional clarity on the process to inform consumers about how to raise valuation concerns early in the underwriting process. Another commenter suggested consumer education should be incorporated as a standard component in the ROV process. A commenter emphasized the importance of appraiser education and training on how to recognize and avoid bias. Another commenter requested additional examples of ROV policies and procedures to improve communications with consumers.

The agencies received several comments regarding timelines of ROV processes. A commenter requested that the agencies incorporate a set timeline for an ROV process into the guidance. Another commenter requested that the agencies consider whether the guidance should set forth a specific timeframe after receipt of the original valuation during which an ROV request must be made. This commenter noted that allowing ROV requests to be made several days or more after receipt of the original valuation can have consequences on the rate lock and can be a considerable burden on financial institutions. Another commenter believed that the guidance should state that, if an institution requests data or other information to support an ROV request, and the required information is not provided by the borrower in a reasonable timeframe, the institution should have no additional responsibilities other than conducting its own internal review to ensure there were no evident omissions, errors, or discriminatory actions involved in the valuation.

The agencies considered the range of comments aimed at adding prescriptiveness to the guidance with regard to second appraisals, the types of information submitted with an ROV request, consumer and appraiser education and training, ROV timelines, and communication with consumers. The final guidance is intended for institutions of many different sizes, types, and business models. Institutions implementing the guidance have flexibility to tailor their ROV processes based on their unique risk profile.[14] The agencies determined there is no one-size-fits-all approach and that it is important to maintain a high-level, principles-based approach to help ensure the guidance will be useful and relevant for a diverse range of institutions and circumstances. In light of their decision to retain the broad, principles-based approach of this guidance, the agencies have not made revisions to address specific topics or individual situations raised by commenters in order to provide flexible guidance for institutions designing their ROV processes.

ii. Uniformity and Standardization of ROV Processes

Some commenters asserted that ROV processes should be uniform across all institutions. Other commenters believed that certain aspects of the ROV process should not be uniform due to the wide range of institutions that would be in-scope for purposes of the guidance. Another commenter recommended that the agencies build in additional flexibility to the guidance for financial institutions to exercise discretion within their own ROV processes. The agencies also received comments related to interagency coordination in developing a uniform, industry-wide ROV process.

[14] Accordingly, institutions have flexibility as to the level of granularity to include in their own ROV processes. For example, an institution's ROV policies and procedures could specify what types of information the institution would accept with an ROV request (*e.g.*, comparable sales provided with an ROV request must have closed by the effective date of the appraisal).

Several commenters recommended the adoption of a standardized, expedient appeals process that would allow any party to the transaction to appeal the valuation, similar to the United States Department of Veterans Affairs' (VA) Tidewater Procedure. The VA's Tidewater Procedure allows VA program participants to provide relevant market data to VA fee-appraisers and staff appraisers during the appraisal process.[15] One commenter suggested that the guidance confirm that an ROV process similar to the Tidewater Procedure is acceptable. Another commenter noted that the major benefit of the Tidewater Procedure is that it establishes a process for an interested party to provide relevant data to the appraiser. A commenter noted that the Tidewater Procedure may help prevent abuse of the ROV process. The commenter raised a concern regarding who would decide the number of alternative sales to review and how it would be decided which sales transactions deserve consideration.

The agencies considered the comments on uniformity and standardization of ROV processes for all institutions and recognize that institutions may find existing standardized processes, such as the Tidewater Procedure, something to consider while

[15] The VA's Tidewater Procedure has been in existence since 2003. Under this procedure, appraisers are required to notify the requester (*i.e.*, the person who orders the appraisal) when it appears that the estimated market value will be below the sale price during the appraisal process. The requester, or any parties to the transaction contacted by the requester, has two business days to submit any additional sales data that they wish to have considered. For each potential comparable sale submitted, requesters are encouraged to provide the following information: 1) street address; 2) sales price; 3) date of sale; 4) gross living area; 5) if the property was listed, a copy of the listing with details about the property; and 6) any other information to assist the appraiser in determining whether the sale could be used as a comparable property. If the requester submits market data, the appraiser will note in the appraisal report that the Tidewater Procedure was followed and include: 1) the street address of each sale submitted; 2) whether each sale was considered and, if not, the reason; and 3) the effect of the data, if any, on the opinion of value. If the market data does not result in the value meeting or exceeding the sale price, the next step is an ROV. After two business days, if the requester does not submit market data, the appraiser will note in the appraisal report that the Tidewater Procedure was followed and complete the appraisal report. *See* VA's Lenders Handbook, Chapter 10, Section 8, available at *https://benefits.va.gov/WARMS/docs/admin26/m26-07/Chapter_10.pdf*; *see also* VA's presentation entitled "Tidewater and Reconsiderations of Value" at the 2023 Loan Guaranty Conference, available at *https://benefits.va.gov/HOMELOANS/documents/conf/2023-lender-d1-04-tidewater.pdf*.

developing their own ROV processes. However, a standardized approach to ROV processes ignores the differences in risk profiles of institutions of varying size and complexity. The final guidance provides a principles-based approach with flexibility for implementing institutions to adopt ROV processes that are responsive to the unique profile of each institution. Thus, the agencies do not believe it would be appropriate to prescribe a rigid, one-size-fits-all ROV process across institutions.

iii. Model Forms, Checklists, & Policies

In the proposal, the agencies specifically requested comment on what model forms, or model policies and procedures, if any, related to ROVs would be helpful for the agencies to recommend. Several commenters encouraged the agencies to develop a standardized model form for ROV requests and provide model disclosure language for financial institutions to use when educating consumers about ROVs. One of these commenters also suggested that the agencies create a list of common documents needed for a consumer to initiate an ROV request.

One commenter suggested that the agencies work with TAF to develop model forms based on TAF's previous efforts in this area. This commenter also recommended that the agencies develop model policies addressing the denial of a consumer's ROV request and situations when consumer-provided information should be forwarded to the appraiser as part of an ROV. Another commenter requested that the agencies encourage the Federal Housing Administration, VA, and United States Department of Agriculture to develop consistent or shared materials for consumers to request ROVs and develop a model borrower application or checklist to standardize the process for consumers to request ROVs.

The agencies considered the comments recommending the development of model forms, model policies, checklists, and other standardized documents. The agencies agree that such documents may have utility and will consider future development of model forms.

D. Comments on Burden on Institutions

Several commenters stated that the proposal would add unnecessary and burdensome requirements on top of an existing ROV process that already functions well. Certain commenters noted that implementing parts of the proposal’s policies and procedures may present significant challenges for smaller institutions, especially institutions with limited resources. One commenter requested an explanation of how the guidance would specifically affect small financial institutions that perform internal valuations as an alternative to formal appraisals. A commenter also expressed concern that smaller institutions do not have sufficient financial resources to support the necessary valuation staff and that many institutions will be unable to make timely and accurate ROV request decisions due to their limited access to nationwide data or analytical tools.

Several commenters expressed concerns related to burden on credit unions specifically. One commenter pointed to the cost associated with oversight and additional processes related to ROVs, which the commenter stated would be passed on to credit union members without providing additional value to their membership. Another commenter noted that applying rigid timelines for an ROV process would be difficult for certain credit unions to implement. One commenter requested that the agencies exclude from the guidance any policies and procedures that require monitoring multiple channels for ROV requests because those would be challenging for credit unions to implement.

This commenter stated that monitoring multiple channels does not align with the NCUA's previous guidance on handling consumer complaints.[16] Another commenter suggested that policies and procedures that require credit unions to ensure that their lending and valuation staff are trained to identify prohibited discriminatory practices through the appraisal review process could be similarly challenging to implement.

The agencies considered these comments regarding burden on smaller institutions, credit unions, and institutions in general. The guidance is intended to provide clarity to institutions with respect to ROV processes. The agencies reiterate that the final guidance does not have the force and effect of law or regulation and does not impose any new requirements on supervised institutions.[17] The examples of policies and procedures in the final guidance are illustrative and not requirements. The final guidance clarifies that these examples may not be applicable or material to each institution or their ROV processes. Risk-based ROV-related policies, procedures, control systems, and complaint processes may vary according to the size and complexity of the financial institution. Smaller financial institutions that choose to implement the guidance may have policies and procedures that differ from those at larger and midsize institutions. Under this guidance, institutions have flexibility in their approach to their internal ROV processes and deciding the relevance of the considerations discussed in the final guidance.

This ROV guidance does not conflict with the NCUA's previous guidance on handling consumer complaints, because financial institutions can use their existing

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[16] NCUA, Responding to Consumer Complaints (June 2015), available at *https://ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/improving-process-consumer-complaints* (recommending that credit unions "[e]stablish channels to receive consumer complaints and inquiries such as telephone numbers or email addresses dedicated to receiving [consumer complaints].").
[17] *See* authorities cited *supra* note 1.

complaint resolution process to manage complaints regarding potential valuation deficiencies. ROV processes work in congruence with the NCUA's current process for consumer complaints.

E. Other Comments Submitted

Several commenters made recommendations regarding the use of automated valuation models (AVMs) in ROV processes.[18] A commenter advised that the agencies should discourage reliance solely on automatic review tools in an ROV and should identify features that AVMs should and should not include for consideration in an ROV. A few commenters encouraged the use of AVMs in ROVs and suggested the use of automated and interactive appraisal review scoring tools that could detect, correct, and minimize human error. The agencies considered these comments and neither promote nor discourage the use of a particular method or tool as part of an ROV process.

One commenter recommended that bias complaints should not be handled by an ROV. This commenter asserted that accusations of bias should trigger an alternative complaint process, either through an escalated ROV process or a review entirely independent of the ROV process. This commenter believed ROVs should be used only for correction of informational or methodological deficiencies that do not relate to discrimination.

The final guidance does not state that ROVs are the sole tool to address bias complaints, nor does the final guidance direct institutions to use a specific tool to address bias complaints. However, in response to this comment, the agencies have made a clarifying edit to the final guidance to provide that, if an ROV request includes

[18] There is a separate Notice of Proposed Rulemaking on quality control standards for AVMs that was published in the *Federal Register* for comment on June 21, 2023. *See* 88 FR 40638.

allegations of discrimination, an institution may consider, in addition to processing the ROV, referring the allegations through a separate process that the institution may have to respond to discrimination complaints.

Other commenters requested that the guidance address the potential liability of parties who may rely on discriminatory appraisals (*e.g.*, third parties, AMCs, fee-appraisers, mortgage brokers, mortgage servicers, and appraisal firms), and appraisers' or evaluators' rights to dismiss non-factual or unverified claims and be shielded from any potential backlash or liability for doing so. The assigning or absolving of civil liability of future unknown parties is outside of the scope of this guidance.

The agencies received a few comments regarding appraiser independence in the context of ROVs. A commenter asserted that the agencies should provide suggestions in the guidance for how to manage ROV requests so that they do not affect appraiser independence. Another commenter recommended that the agencies clarify and provide examples of how appraiser independence can be maintained during an ROV of an internal evaluation when an institution has only one or two individuals on staff that are qualified to perform evaluations. Another commenter believed that the guidance, as proposed, puts appraiser independence at risk.

The agencies considered the comments received on appraiser independence and reiterate that institutions are responsible for maintaining standards of independence for all real estate lending activity, including ROVs, as required by the agencies' appraisal regulations and, as applicable, USPAP. For small institutions or branches, an institution may be able to demonstrate clearly that it has prudent safeguards in place when absolute lines of independence cannot be achieved, due to, for example, limited staff.[19]

Commenters also made suggestions for further actions the agencies could take, such as developing data-sharing arrangements to collect ROV data. The agencies may take such suggestions under advisement when considering future agency initiatives on this topic. A few commenters encouraged the agencies to hold roundtables and hearings to gather stakeholder input in the development of the final guidance. The agencies note that the proposed guidance was published for notice and comment in the *Federal Register* for the purpose of gathering stakeholder input.

Lastly, one commenter asserted that the interpretation of the adequacy of an ROV process will vary and will be defined by each exam, opening banking organizations up to unnecessary criticism. Examiners will continue to review institutions' residential real estate collateral valuation programs within the framework of established safety and soundness and consumer compliance examination procedures. This examination scope includes consideration of whether institutions' risk management practices for valuations are appropriate to identify and address valuation discrimination or bias and promote credible valuations.[20]

III. Paperwork Reduction Act Analysis

[19] *See* Interagency Appraisal and Evaluation Guidelines, 75 FR 77457, 77462 (December 10, 2010).

[20] *See* the Federal Financial Institutions Examination Council's (FFIEC) Statement on Examination Principles Related to Valuation Discrimination and Bias in Residential Lending, Attachment B (February 12, 2024), available at *https://files.consumerfinance.gov/f/documents/cfpb_ffiec-statement-on-exam-principles_2024-02.pdf*. In some situations, examiners may reference (including in writing) supervisory guidance to provide examples of safe and sound conduct, appropriate consumer protection and risk management practices, and other actions for addressing compliance with laws or regulations. *See* 12 CFR part 4, subpart F, appendix A (OCC); 12 CFR part 262, appendix A (Board); 12 CFR part 302, appendix A (FDIC); 12 CFR part 1074, appendix A (CFPB); 12 CFR part 791, subpart D, appendix A (NCUA).

In accordance with the Paperwork Reduction Act (PRA) of 1995,[21] the Board, FDIC, NCUA, and OCC reviewed the final guidance. The agencies may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The agencies have determined that certain aspects of the final guidance constitute a collection of information and are revising their information collections related to real estate appraisals and evaluations. The OMB control number for each agency is: OCC, 1557-0190; Board, 7100-0250; FDIC, 3064-0103; and 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 guidance, the Board, FDIC, NCUA, and OCC are also updating and aligning their information collections with respect to the hourly burden associated with the Guidelines. Accordingly, the tables below provide data on both the final guidance addressed in this notice and the Guidelines.

The agencies did not receive any PRA-related comments. The agencies have a continuing interest in the public's opinions of information collections. At any time, commenters may submit comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to the addresses listed in the ADDRESSES caption in the Notice of Proposed Guidance. All comments will become a matter of public record. 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

[21] 44 U.S.C. 3506.

information collection by selecting "Currently under 30-day Review—Open for Public Comments'' or using the search function.

Abstract: The final guidance describes principles for financial institutions to implement ROV policies, procedures, and control systems that identify, address, and mitigate the risk of deficient valuations. Such policies and procedures create a recordkeeping requirement.

Frequency of Response: Annual.

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) and nonbank subsidiaries of BHCs.

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

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

Burden:

OCC:

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:	§ 34.44	976	1,465 responses	119,072

Appraisals must be written and contain sufficient information and analysis to support engaging in the transaction			per respondent @ 5 minutes per response	
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 Information Collection ("IC") 1 – ROV Guidance – Policies and Procedures (Implementation: Applies to first year only)	N/A	907	13.3	12,093
Recordkeeping: New IC 2 – ROV Guidance – Policies and Procedures (Ongoing)	N/A	907	2	1,814
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	**192,676**

Board:

Table 2. Summary of Estimated Annual Burden (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	25	5 minutes	9,408
Guidelines	5,222	1	10	52,220
Policies and Procedures ROV guidance (Initial setup)	5,591	1	13.3	74,547
Policies and Procedures ROV guidance (Ongoing)	5,591	1	2	11,182
Disclosure				
Guidelines	5,222	1	5	26,110
Total				**202,766**

FDIC:

Table 3. Summary of Estimated Annual Burden (OMB No. 3064-0103)					
Information Collection (IC) (Obligation to Respond)	**Type of Burden (Frequency of Response)**	**Number of Respondents**	**Number of Responses per Respondent**	**Time per Response (HH:MM)**	**Annual Burden (Hours)**
Recordkeeping Requirements Associated with Real Estate Appraisals and Evaluations (Mandatory)	Recordkeeping (On Occasion)	2,936	259	00:05	63,369
New IC 1 – ROV Guidance – Policies and Procedures - Implementation (Voluntary)	Reporting (Annual)	2,887	0.33	40:00	38,120
New IC 2 – ROV Guidance – Policies and Procedures – Ongoing (Voluntary)	Disclosure (Annual)	2,887	1	02:00	5,774
New IC 3 – 2010 Guidelines – Policies and Procedures – Ongoing	Recordkeeping (Annual)	2,936	1	10:00	29,360
New IC 4 – 2010 Guidelines - Disclosure – Ongoing (Voluntary)	Reporting (Annual)	2,936	1	05:00	14,680
				Total Annual Burden (Hours):	***151,303***
Source: FDIC.					

Note: The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.

NCUA:

Table 4. Summary of Estimated Annual Burden (OMB No. 3133-0125)

Information Collection	Type of Burden	Average Annual Number of Respondents	Number of Responses per Respondent	Time per Response (Hours)	Annual Burden (Hours)
Recordkeeping Requirements Associated with Real Estate Appraisals and Evaluations	Recordkeeping (On Occasion)	2,871	517	0.0833	123,643
New IC 1 – ROV Guidance – Policies and Procedures – Implementation	Recordkeeping (Annual)	2,871	1	5	14,355
New IC 2 – ROV Guidance – Policies and Procedures – Ongoing	Recordkeeping (Annual)	2,871	1	1	2,871
New IC 3 – 2010 Guidelines – Policies and Procedures – Ongoing	Recordkeeping (Annual)	2,871	1	10	28,710
New IC 4 – 2010 Guidelines - Disclosure – Ongoing	Disclosure (Annual)	2,871	1	5	14,355
Total Annual Burden Hours					**183,934**

Comments continue to be invited on:

(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.

IV. Text of Final Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations

Background

Credible collateral valuations, including appraisals, are essential to the integrity of the residential real estate lending process.[22] Deficiencies identified in valuations, either through an institution's valuation review processes or through consumer-provided information, may be a basis for financial institutions to question the credibility of the appraisal or valuation report. Collateral valuations may be deficient due to prohibited discrimination;[23] errors or omissions; or valuation methods, assumptions, data sources, or conclusions that are otherwise unreasonable, unsupported, unrealistic, or inappropriate.

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[22] For the purposes of this guidance, the residential real estate lending process is limited to real estate-related financial transactions that are secured by a single 1-to-4 family residential property.

[23] For the purposes of this guidance, "discrimination" is prohibited discrimination based on protected characteristics in the residential property valuation process. For these purposes, "valuation" includes appraisals, evaluations, and other means to determine the value of residential property.

Deficient collateral valuations can keep individuals, families, and neighborhoods from building wealth through homeownership by potentially preventing homeowners from accessing accumulated equity, preventing prospective buyers from purchasing homes, making it harder for homeowners to sell or refinance their homes, and increasing the risk of default. Deficient valuations may pose risks to the financial condition and operations of a financial institution. Such risks may include loan losses, violations of law, fines, civil money penalties, payment of damages, and civil litigation.

Applicable Statutes, Regulations, and Guidance

The Equal Credit Opportunity Act (ECOA), and its implementing regulation, Regulation B, prohibit discrimination in any aspect of a credit transaction.[24] The Fair Housing Act (FH Act) and its implementing regulation prohibit discrimination in all aspects of residential real estate-related transactions.[25] ECOA and the FH Act prohibit discrimination on the basis of race and certain other characteristics in all aspects of residential real estate-related transactions, including in residential real estate valuations. In addition, section 5 of the Federal Trade Commission Act prohibits unfair or deceptive acts or practices[26] and the Consumer Financial Protection Act prohibits any covered person or service provider of a covered person from engaging in any unfair, deceptive, or

[24] *See* 15 U.S.C. 1691 *et seq*. and 12 CFR part 1002. While this guidance focuses on residential valuations, ECOA covers all lending, including commercial lending. In addition, Regulation B requires creditors to 1) provide an applicant a copy of all appraisals and other written evaluations developed in connection with an application for credit that is to be secured by a first lien on a dwelling; and 2) provide a copy of each such appraisal or other written valuation promptly upon completion, or three business days prior to consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is earlier. *See* 12 CFR 1002.14(a)(1).

[25] *See* 42 U.S.C. 3601 *et seq*. and 24 CFR part 100. The FH Act defines "residential real estate-related transaction" as 1) the making or purchasing of loans or providing other financial assistance for: purchasing, constructing, improving, repairing or maintaining a dwelling; or secured by residential real estate; or 2) the selling, brokering or appraising of residential real property. *See* 42 U.S.C. 3605(b); 24 CFR 100.115.

[26] *See* 15 U.S.C. 45(a)(1).

abusive act or practice.[27]

The Truth in Lending Act (TILA) and its implementing regulation, Regulation Z, establish certain Federal appraisal independence requirements.[28] Specifically, TILA and Regulation Z prohibit compensation, coercion, extortion, bribery, or other efforts that may impede upon the appraiser's independent valuation in connection with any covered transaction.[29] However, Regulation Z also explicitly clarifies that it is permissible for covered persons[30] to, among other things, request the preparer of the valuation to consider additional, appropriate property information, including information about comparable properties, or to correct errors in the valuation.[31]

The Board's, FDIC's, NCUA's, and OCC's appraisal regulations[32] implementing title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989[33] require all appraisals conducted in connection with federally related transactions to conform with the Uniform Standards of Professional Appraisal Practice (USPAP), which requires compliance with all applicable laws and regulations including nondiscrimination requirements.

The Board's, FDIC's, NCUA's, and OCC's appraisal regulations also require appraisals for federally related transactions to be subject to appropriate review for

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[27] *See* 12 U.S.C. 5531, 5536.
[28] *See* 15 U.S.C. 1601 *et seq.* and 12 CFR part 1026.
[29] *See* 12 CFR 1026.42(c)(1).
[30] "Covered persons" include creditors, mortgage brokers, appraisers, appraisal management companies, real estate agents, and other persons that provide "settlement services" as defined in section 3(3) of the Real Estate Settlement Procedures Act (12 U.S.C. 2602(3)) and the implementing regulation. *See* 12 CFR 1026.42(b)(1).
[31] *See* 12 CFR 1026.42(c)(3)(iii).
[32] *See* 12 CFR part 34, subpart C (OCC); 12 CFR part 208, subpart E and 12 CFR part 225, subpart G (Board); 12 CFR part 323 (FDIC); 12 CFR part 722 and 12 CFR 701.31 (NCUA).
[33] Pub. L. 101–73, title XI, 103 Stat. 511 (1989), codified at 12 U.S.C. 3331 *et seq*.

compliance with USPAP.[34] Financial institutions generally conduct an independent review prior to providing the consumer a copy of the appraisal or evaluation; however, additional review may be warranted if the consumer provides information that could affect the value conclusion or if deficiencies are identified in the original appraisal. An appraisal does not comply with USPAP if it relies on a prohibited basis set forth in either ECOA or the FH Act[35] or contains material errors including errors of omission or commission.[36] If a financial institution determines through the appraisal review process, or after consideration of information later provided by the consumer, that the appraisal does not meet the minimum standards outlined in the agencies' appraisal regulations and if the deficiencies remain uncorrected, the appraisal cannot be used as part of the credit decision.[37]

The Board, FDIC, NCUA, and OCC have issued interagency guidance describing actions that financial institutions may take to resolve valuation deficiencies.[38] These actions include resolving the deficiencies with the appraiser or preparer of the valuation report; requesting a review of the valuation by an independent, qualified, and competent state certified or licensed appraiser; or obtaining a second appraisal or evaluation. Deficiencies may be identified through the financial institution's valuation review or

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[34] *See* 12 CFR 34.44(a) (OCC); 12 CFR 225.64(c) (Board); 12 CFR 722.4(c) (NCUA); and 12 CFR 323.4(c) (FDIC).

[35] *See* Nondiscrimination Section of the USPAP's Ethics Rule (2024 edition).

[36] An error of omission is neglecting to do something that is necessary, *e.g.*, failing to identify the subject property's relevant characteristics. An error of commission is doing something incorrectly, *e.g.*, incorrectly identifying the subject property's relevant characteristics.

[37] *See* 12 CFR 34.44 (OCC); 12 CFR 225.64 (Board); 12 CFR 323.4 (FDIC); and 12 CFR 722.4 (NCUA). In addition, under TILA, if at any point during the lending process the financial institution reasonably believes, through appraisal review or consumer-provided information, that an appraiser has not complied with USPAP or ethical or professional requirements for appraisers under applicable state or Federal statutes or regulations, the financial institution is required to refer the matter to the appropriate state appraisal regulatory agency if the failure to comply is material. *See* 12 CFR 1026.42(g).

[38] *See* Interagency Appraisal and Evaluation Guidelines, 75 FR 77450 (December 10, 2010).

through consumer-provided information. The regulatory framework permits financial institutions to implement reconsideration of value (ROV) policies, procedures, and control systems that allow consumers to provide, and the financial institution to review, relevant information that may not have been considered during the appraisal or evaluation process.[39]

Use of Third Parties

A financial institution's use of third parties in the valuation review process does not diminish its responsibility to comply with applicable laws and regulations.[40] Moreover, whether valuation review activities and the resolution of deficiencies are performed internally or via a third party, financial institutions supervised by the Board, FDIC, NCUA, and OCC are required to operate in a safe and sound manner and in compliance with applicable laws and regulations, including those designed to protect consumers.[41] In addition, the CFPB expects financial institutions to oversee their business relationships with service providers in a manner that ensures compliance with

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[39] The agencies note that institutions that choose to implement ROV policies described in this guidance would not be precluded or excused from complying with other relevant legal and contractual requirements related to ROVs, as applicable.

[40] *See* OCC Bulletin 2023-17, "Third-Party Relationships: Interagency Guidance on Risk Management" (June 6, 2023); CFPB Compliance Bulletin and Policy Guidance; 2016-02, Service Providers (October 2016); FDIC FIL-29-2023, "Interagency Guidance on Third-Party Relationships: Risk Management" (June 6, 2023); Board SR Letter 23-4, "Interagency Guidance on Third-Party Relationships: Risk Management" (June 7, 2023). The Board, FDIC, and OCC also issued "Third-Party Relationships: A Guide for Community Banks," which is intended to assist community banks when developing and implementing their third-party risk-management practices. *See* OCC Bulletin 2024-11 (May 3, 2024); FDIC FIL-19-2024 (May 3, 2024); SR Letter 24-2 (May 7, 2024). The NCUA does not currently have supervisory or enforcement authority over third-party credit union vendors and service providers. The NCUA issued LTR 07-CU-13 "Evaluating Third Party Relationships" to communicate guidance to examiners on a standard framework for reviewing third party relationships.

[41] *See* section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1) (which requires each appropriate Federal banking agency to prescribe safety and soundness standards for insured depository institutions). The Federal banking agencies implemented section 1831p-1 by rule through the "Interagency Guidelines Establishing Standards for Safety and Soundness." *See* 12 CFR part 30, appendix A (OCC); 12 CFR part 208, appendix D-1 (Board); and 12 CFR part 364, appendix A (FDIC). *See also* 12 U.S.C. 1786(b); 12 U.S.C. 1789; and 12 CFR 741.3 (NCUA).

Federal consumer protection laws, which are designed to protect the interests of consumers and avoid consumer harm.[42] A financial institution's risk management practices include managing the risks arising from its third-party valuations and valuation review functions.

Reconsiderations of Value

An ROV request made by the financial institution to the appraiser or other preparer of the valuation report encompasses a request to reassess the report based upon deficiencies or information that may affect the value conclusion. A financial institution may initiate a request for an ROV because of the financial institution's valuation review activities or after consideration of information received from a consumer through a complaint, or request to the loan officer or other lender representative.[43]

A consumer inquiry or complaint regarding a valuation would generally occur after the financial institution has conducted its initial appraisal or evaluation review and resolved any issues that it has identified. Given this timing, a consumer may provide specific and verifiable information that may not have been available or considered when the initial valuation and review were performed. Regardless of how the request for an ROV is initiated, a consumer inquiry or complaint could be resolved through a financial institution's independent valuation review or other processes to ensure credible appraisals and evaluations.

An ROV request may include consideration of comparable properties not previously identified, property characteristics, or other information about the property that may have been incorrectly reported or not previously considered, which may affect

[42] CFPB Compliance Bulletin and Policy Guidance; 2016-02, Service Providers (October 2016).
[43] *See* Interagency Appraisal and Evaluation Guidelines, 75 FR 77450, 77463 (December 10, 2010).

the value conclusion. To resolve deficiencies, including those related to potential discrimination, financial institutions can communicate relevant information to the original preparer of the valuation and, when appropriate, request an ROV.

Complaint Resolution Process

Financial institutions can capture consumer feedback regarding potential valuation deficiencies through existing complaint resolution processes. The complaint resolution process may capture complaints and inquiries about the financial institution's products and services offered across all lines of business, including those offered by third parties, as well as complaints from various channels (such as letters, phone calls, in person, transmittal from regulators, third-party valuation service providers, emails, and social media). Depending on the nature and volume, appraisal and other valuation-based complaints and inquiries can be an important indicator of potential risks and risk management weaknesses. Appropriate policies, procedures, and control systems can adequately address the monitoring, escalating, and resolving of complaints including a determination of the merits of the complaint and whether a financial institution should initiate an ROV.

Examples of Policies, Procedures, and Control Systems

Financial institutions may consider developing risk-based ROV-related policies, procedures, control systems, and complaint resolution processes[44] that identify, address, and mitigate the risk of deficient valuations, including valuations that involve prohibited

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[44] Risk-based ROV-related policies, procedures, control systems, and complaint processes may necessarily vary according to the size and complexity of the financial institution. Smaller financial institutions that choose to implement the guidance may have policies and procedures that differ from those at larger and midsize institutions.

discrimination, and that:

- Consider ROVs as a possible resolution for consumer complaints or inquiries related to residential property valuations. If a complaint or inquiry includes allegations of discrimination, the institution may consider, in addition to processing the ROV, separately initiating the process the institution may have to respond to allegations of discrimination.
- 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 the institution initiate an ROV.
- Establish a process that provides for the identification, management, analysis, escalation, and resolution of valuation-related complaints or inquiries 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 early enough in the underwriting process for any errors or issues to be resolved before a final credit decision is made. This may include educating consumers on 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., requests that include concerns or inquiries 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:
    - Use clear, plain language in notices to consumers of how they may request the ROV;
    - Use clear, plain language in ROV policies that provide a consistent process for the consumer, appraiser, and internal stakeholders;
    - Establish guidelines for the information the financial institution may need to initiate the ROV process;
    - Establish timelines in the complaint or ROV processes for when milestones need to be achieved;
    - Establish guidelines for when a second appraisal could be ordered and who assumes the cost; and
    - Establish protocols for communicating the status of the complaint or ROV and the lender's determination to consumers.
- 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 (including practices that may result in discrimination) through the valuation review process.

Michael J. Hsu,
Acting Comptroller of the Currency.

By order of the Board of 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 July 08, 2024.
Hina Z. Hussain,
Acting Assistant Executive Secretary.

By the National Credit Union Administration Board on June 27, 2024.
Melane Conyers-Ausbrooks,
Secretary of the Board.

Rohit Chopra,
Director, *Consumer Financial Protection Bureau*.