FFIEC to Lenders: Appraisal Bias Compliance Management in Focus

February 15, 2024

On February 12, 2024, the Federal Financial Institutions Examination Council (FFIEC) issued a concise statement on **Examination Principles Related to Valuation Discrimination and Bias in Residential Lending**. Although the document is styled as a statement of principles, it sets forth a compliance management framework for which banks, credit unions and mortgage lenders will be examined as to their oversight of appraisals and property valuations. The statement further indicates that evidence of valuation discrimination or bias may negatively affect an institution's safety and soundness, which will be reflected in examination ratings. While the statement references appraiser independence requirements – which were established, in large part, due to concerns about risks in inflated appraisals and overvaluation post-financial crisis – its discussion of risk is tied exclusively to undervaluation, discrimination and bias, with the focus on lack of access to credit, credit offered on less favorable terms or steering to a narrower product offering.

According to the statement, lenders will have to apply the typical compliance management system framework to assessing and evaluating risk of discrimination in appraisal practices. This includes:

- **Policies and procedures** designed to identify potentially discriminatory valuation practices or valuation results.
- **Training** aimed at helping employees identify potential discrimination in lending and valuation programs.
- **Monitoring and testing** to identify and address potential valuation-related discrimination.
- **Consumer complaint handling practices** to address, track and monitor complaints – including, according to the statement, complaints via letter, phone call, in person, regulator, third-party service provider, email and social media.
- **A third-party risk management function** facilitating both an upfront and ongoing assessment of processes and compliance with anti-discrimination laws for vendors that prepare valuation reports, appraisers and appraisal management companies.

The statement also indicates examiners will assess whether the board of directors and management are devoting sufficient resources to implementing, maintaining and overseeing the compliance management system as it pertains to real estate valuations.

What's next?

The FFIEC statement is the most recent step in the federal regulators' comprehensive initiative to address concerns of appraisal bias in residential lending and follows the June 2023 interagency **proposal on quality control standards for automated valuation models** and **research by the Federal Housing Finance Agency** regarding whether homes are more likely to be underappraised in minority communities. Interestingly, the statement appears to adopt the view that lenders can be held liable for relying upon discriminatory appraisals conducted by third parties under the Equal Credit Opportunity Act and the Fair Housing Act. The statement also indicates that discriminatory appraisal practices also may constitute unfair, deceptive, or abusive acts or practices (UDAAP), **presumably notwithstanding the recent federal district court decision striking down the CFPB's proposed application of UDAAP principles to alleged discriminatory lending practices**. Given the growing regulatory interest in this space – this statement being only the most recent example – lenders should ensure that their compliance management systems and fair lending programs are operating as intended, including with an eye toward the evolving regulatory expectations in appraisal valuations.

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