



# *GSE Activity Report*

---

Thursday, February 24, 2022

## *AVM Agonistes*

### Summary

As noted late [yesterday](#), the CFPB has gotten a jump on FHFA and the banking agencies with the first step towards a long-delayed AVM rule demanded in the [Dodd-Frank Act](#). It proposes AVM standards that will not only emphasize fair lending, but also extend to all originators, servicers, MIs, and even GSEs.

### Impact

As we noted yesterday, Dodd-Frank's focus was AVM quality, a concern aroused by the enormous amount of over-valuation that characterized mortgage finance before the crash. The law thus demands of the CFPB, FHFA, and the banking agencies that they set formal AVM model-validation, back-testing, and governance standards; the Bureau now plans to do so as well as to add standards addressing its director's top priority: fairness.

Although none of the other agencies has taken up AVMs, we expect most if not all of them to join the Bureau in issuing an inter-agency proposal once the Bureau has walked through the small-business comment process required of it in contrast to any of the other agencies. We expect the banking agencies to agree to most if not all of what the Bureau wants not only to take a gift horse without losing jurisdiction, but also because they share the Bureau's fair-lending focus.

The Bureau's specific request for comment focuses on high-level options -- e.g., should standards be principles-based or prescriptive, any need for an express anti-discrimination element. However, the Bureau also hints at other regulatory inclinations, including a definition of AVM that addresses all underwriting uses, but excludes marketing, portfolio management and appraiser quality control. The Bureau is also considering excluding AVMs used by licensed appraisers targeted elsewhere by the CFPB, limiting jurisdiction only to the origination process (defined to include servicing when this changes loan terms). The law covers AVMs used in secondary-market issuance and the Bureau is thus considering extending its standards to entities such as mortgage insurers even though the extent to which its jurisdiction allows regulatory or enforcement power over MIs to us seems most uncertain.

The Bureau's options tread hard on FHFA's toes with regard to the extent to which AVMs used by the GSEs in securitization would come under its purview. The extent to which Fannie and Freddie are subject to Bureau jurisdiction has largely been moot because they engage in no retail consumer-finance activities. However, the AVM provisions are an exception where Congress has given the Bureau possible reach back to the GSEs. This is not in our view what Congress had in mind -- why else stipulate that FHFA sets AVM standards -- but then Congress also didn't contemplate the Bureau's reach to the anti-discrimination standards it plans along with broader AVM regulation.

### Outlook

The Bureau wants comments from small businesses by April 8 and everyone else by May 13. It will, we expect, get more than a few.