Fair Lending Appraisal Risk Evaluation (“FLARE”)

Appraisal Bias Risk Mitigation

Regulators are cracking down on home lending appraisals in situations where assets are undervalued based on a prohibited basis, particularly race. The National Credit Union Agency (“NCUA”) included appraisal bias as one of its areas of focus in its 2023 Supervisory Priorities,[1] and the Consumer Financial Protection Bureau (“CFPB”) has stated that it “is considering all available avenues to tackle discrimination in appraisals.”[2]

In a recent court filing[3] the CFPB and the Department of Justice conclude that “a lender may be held liable for relying on an appraisal that it knows or should have known to be discriminatory, [and that the consumer] need not allege an underlying FHA violation in order to state a claim under section 3617.”[4] This conclusion presents the biggest risk to lenders who may be held liable for the actions of the service provider.

FLARE: An Appraisal Bias Risk Mitigation Solution

FTI Consulting’s Financial Services and Data & Analytics teams have developed a solution, FLARE, that can help mitigate fair lending risks associated with appraisals and reconsiderations of value (“ROV”) programs. FLARE reviews the entire portfolio instead of a sample, allowing lenders to effectively identify risks and corrective actions, including identifying certain appraisers or locations that present the largest risks. Using the tool also allows lenders to test any Underwriting Quality Assurance or Quality Control processes in place.

The solution uses automated capabilities to perform a systemic review of appraisals by:

1. Reviewing appraisals for derogatory terms and phrases used in the appraisal report that indicate a prohibited basis group characteristic was used when assessing the value of the home.
2. Reviewing appraised values and comparing the value to the initial sales price or estimated value.
3. The applications that are identified in this process are then statistically reviewed to determine if a particular basis group is being treated differently than another basis group.

Using FLARE, our team can quickly identify loan accounts within the overall population that may present fair lending risks and require further analysis.

Automation Benefits

Some of the benefits of using FLARE compared with manual review are:

	MANUAL REVIEW	FLARE
Appraisals reviewed	Due to resource restrictions, manual review will only review a sample of appraisals and more than likely be limited to a handful of MSAs.	Using FLARE, lenders can review their entire portfolio
Coverage	Limited to preselected MSAs	Entire Lending footprint
Cost	The cost of doing a manual review includes the cost of the labor hours. Also, using manual hours for a review means lenders will have to adjust other reviews based on the company's risk.	FLARE is an automated tool which allows for minimal manual hours to review the outcomes. This reduces overall costs as well as allows lenders to focus on other areas of risk.
Adaptation	Manual reviews require the reviewer to be up to speed with the most recent appraisal practices as well as constantly communicating with other reviewers to make sure of consistent reviews across all appraisals.	FLARE applies a consistent review across all appraisals. Additionally, reviewing parameters can be updated seamlessly based on the data discovered from within the appraisals as well as outside sources. This allows for the reviews to adapt to the current appraisal environment.

ROV Program review:

1. Assess policies and procedures in place for ROV to ensure lenders have a sound process in place to review appraisals and process ROVs.
2. Assess communication with consumers regarding ROV to identify when and how often in the application process the lender informs the consumer about their ability to request a ROV and the process in submitting the request.
3. Assess staff knowledge and understanding of ROV policies and procedures to ensure all staff who interact with consumers or responsible for reviewing appraisals understand the fair lending risk associated with appraisals and the ROV process.
4. Assess monitoring and audit functions regarding the ROV process to ensure reviews occur on a cadence related to the risk.
5. Review of complaints indicating potential fair lending risks associated with appraisals. Any complaints which allege an appraisal fair lending risk can be correlated with other application information to identify if any common root causes exist.

If any gaps are identified, our team can provide recommendations for remediation.

Our experts include former regulators from agencies such as the CFPB and the Office of the Comptroller of the Currency, that have the knowledge and experience to help lenders identify gaps and improve processes.

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1 *NCUA's 2023 Supervisory Priorities*, January 2023, NCUA https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/ncuas-2023-supervisory-priorities

2 *Deputy Director Martinez's Prepared Remarks at the National Fair Housing Alliance Event Previewing "Our America: Lowballed"*, January 2023, CFPB https://www.consumerfinance.gov/about-us/newsroom/deputy-director-martinezs-prepared-remarks-at-the-national-fair-housing-alliance-event-previewing-our-america-lowballed/

3 Nathan Connolly and Shani Mott v. Shane Lanham, 20/20 Valuations, and loanDepot.com, LLC, March 2023, www.justice.gov/opa/press-release/file/1573696/download

4 Ibid

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