



August 21, 2023

Chief Counsel's Office
Attn: Comment Processice
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

**RE: MHI Comment Letter:
Quality Control Standards for Automated Valuation Models
Docket ID OCC-2023-0002; RIN 2590-AA62**

To Whom It May Concern:

The Manufactured Housing Institute (MHI) writes to submit comments to the Consumer Financial Protection Bureau (the "Bureau") regarding the Bureau's proposed rule to implement certain quality control standards that mortgage lenders must apply to Automated Valuation Models ("AVMs") utilized in the mortgage lending process.

MHI writes solely to ask the Bureau to confirm that the proposed rule for AVMs does not apply to "cost estimates" like those used in complying with the higher-priced mortgage loan appraisal requirements of Section 1026.35 of Regulation Z.

MHI is the only national trade association that represents every segment of the factory-built housing industry. Our members include builders, suppliers, retail sellers, lenders, installers, community owners, community managers, and others who serve our industry, as well as 48 affiliated state organizations. In 2022, our industry produced nearly 113,000 homes, accounting for approximately 11 percent of new single-family home starts. These homes are produced by 35 U.S. corporations in 146 homebuilding facilities located across the country. Today, MHI members represent over 85 percent of all manufactured homes produced and we are pleased to submit the following comments on behalf of this important industry.

MHI knows that the Bureau is aware of the importance to the manufactured home industry of cost estimates. A cost estimate is derived from closed sales data. The designation as a cost approach is significant as it does not rely on comparables. Cost approach, simply put, is the cost to make less depreciation. The sales comparison approach of an appraisal or AVM, in contrast, derives value of the subject property from the sales prices of comparable properties recently sold plus or minus adjustments. It is the sales comparison approach which gives rise to the concern of amplified bias where an algorithm is used without oversight.

Manufactured homeowners, consumers, retailers and lenders all rely on these independent cost estimates to confirm home values. These cost estimate guides are also utilized by courts in reaching conclusions regarding the value of manufactured homes. The information is maintained by the independent companies who provide these cost estimates to the requesting party in exchange for a fee. These cost estimates are not location (address or neighborhood) specific; they are region specific. The NADA Manufactured Housing Cost Guide, for example, was developed exclusively for the factory built, manufactured housing industry.

As noted, the Bureau has recognized the usefulness of cost estimates when it comes to manufactured home lending, and the NADA Guide is specifically mentioned. Section 1026.35 of Regulation Z addresses certain requirements applicable to higher-priced mortgage loans as defined therein. One such requirement for those loans is that they must have an appraisal meeting the requirements of 1026.35(c)(3) unless the loan somehow meets one or more of the exceptions to the requirement as set out in 1026.35(c)(2). It is clear from both the rule and the commentary therein that a report generated from an Automated Valuation Model (“AVM”) does not satisfy the general appraisal requirement, nor is it listed as a valuation that can be utilized as part of an exception to the general appraisal requirement. The rule does however have an exception to the general appraisal requirements that is specific to manufactured homes and specifically allows the use of a cost estimate. That exception exempts a creditor from getting a full appraisal for:

(viii) A transaction secured by:

(A) A new manufactured home and land, but the exemption shall only apply to the requirement in paragraph (c)(3)(i) of this section that the appraiser conduct a physical visit of the interior of the new manufactured home; or

(B) A manufactured home and not land, for which the creditor obtains one of the following and provides a copy to the consumer no later than three business days prior to consummation of the transaction—

(1) For a new manufactured home, the manufacturer's invoice for the manufactured home securing the transaction, provided that the date of manufacture is no earlier than 18 months prior to the creditor's receipt of the consumer's application for credit;

(2) A cost estimate of the value of the manufactured home securing the transaction obtained from an independent cost service provider; or

(3) A valuation, as defined in § 1026.42(b)(3), of the manufactured home performed by a person who has no direct or indirect interest, financial or otherwise, in the property or transaction for which the valuation is performed and has training in valuing manufactured homes.

As part of the implementation of that rule, the Bureau published a small business compliance guide in which it stated in pertinent part that:

Transactions secured solely by a manufactured home and not land will be exempt from the rules if the creditor gives the consumer...an independent cost service unit cost. An “independent cost service” would include a value report from the NADA guides, for example.

During the Bureau’s small panel review process, the issue of NADA guides and other cost estimates being utilized was raised. Specifically in the Bureau’s Final Report of the Small Business Review Panel on the CFPB’s Proposals and Alternatives Under Consideration for the Automated Valuation Model (AVM) Rulemaking we find a response to Q28 wherein a commentator stated “we value [manufactured homes] through NADA...and surely it is not the intent of the CFPB to require us to extend the quality control program to those resources as well? If so, I cannot see how we could possibly comply.” Another commentator stated in response to Q27 that “for the most part AVMs are only available on stick-built residential properties on real property.” This commentator clearly viewed AVMs and cost estimates provided by companies like NADA differently. We do not find that this issue was ever addressed by the Bureau with clarity but we believe the issue raised is valid. Further, when drafting this proposed rule, the Bureau consulted with Appraisal Boards and did not appear to review the potential impact this rule would have on organizations such as NADA or any other manufactured home specific valuation methods.

The burden to those in the manufactured home industry who rely on the use of independent cost estimates to attempt to comply with the AVM rule should it be read to cover these cost estimates would be significant and nearly impossible, especially when compared with any negligible risk to consumers. Unlike appraisals and traditional AVMs, location of the property not at issue and no borrower information, demographic or otherwise, is tied to the NADA report or is it needed to obtain a value from the independent third party providing the valuation, thus making discriminatory bias nearly impossible. If AVMs “arguably involve less human discretion than appraisals” and “AVMs have the potential to reduce human biases” then NADA values involve even less discretion and an even further reduction in human bias. These cost estimate providers are independent, reputable and have been providing these cost estimate valuations for decades.

For all these reasons, it is important that the Bureau make clear that cost estimates valuations like those provided by NADA guides fall outside the scope of the rule.

Thank you for consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Lesli Gooch". The signature is written in a cursive, flowing style.

Lesli Gooch, Ph.D.
Chief Executive Officer