**FACT SHEET**

# Recommendations for Housing Regulators To Take Further Action on AI

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This fact sheet collects the recommendations from Chapter 4: "Housing Regulators" of the joint report from Governing for Impact (GFI) and the Center for American Progress, "Taking Further Agency Action on AI: How Agencies Can Deploy Existing Statutory Authorities To Regulate Artificial Intelligence." The chapter notes how the U.S. Department of Housing and Urban Development (HUD) and other housing regulators should consider addressing potential artificial intelligence (AI) risks to housing fairness and discrimination using existing statutory authorities in the Fair Housing Act (FHA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act. The goal of these recommendations is to provoke a generative discussion about the following proposals, rather than outline a definitive executive action agenda. This menu of potential recommendations to address AI demonstrates that there are more options for agencies to explore beyond their current work and that agencies should immediately utilize existing authorities to address AI.

**Read the full report**

Taking Further Agency Action on AI

**Read the full chapter**

Housing Regulators

## Fair Housing Act

Based on FHA authorities, HUD could take the following action:

- **Update the "Fair Housing Advertising" guidelines – a separate document from the newly released advertising guidance – elucidating Section 804(c)'s prohibition against discrimination in the advertisement of housing opportunities in the context of online advertising that relies on algorithmic tools or data,** as required by the 2023 "Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence" and consistent with the recent HUD guidance on advertising through digital platforms.[1] Such guidance would be consistent with the U.S. Department of Justice's (DOJ) settlement with Facebook, which targeted similar practices,[2] and can specifically highlight practices that lead to housing advertisements being steered away from protected communities.[3] Furthermore, the guidance should specify that companies providing advertising services using AI technologies are liable. The guidelines should mirror the responsibilities and liabilities outlined in HUD's recent guidance.[4]

## Dodd-Frank Act

Based on this authority, the Federal Housing Finance Agency (FHFA) should take the following actions:

- **Continue the rulemaking process on the proposed automated valuation model (AVM) rule but also include its application to all mortgage lenders**—specifically nonbanks, given that more than half of annual residential real estate loans were made by nonbanks in 2022.[5] Furthermore, the rule should include specific minimum standards for each proposed goal, potentially incorporating the National Institute of Standards and Technology (NIST) AI guidelines[6] or relevant minimum standards developed in response to the minimum risk management practices anticipated by the Office of Management and Budget (OMB) M-24-10 memorandum on "Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence."[7]

- **Specify, through the proposed AVM rule or additional rulemaking, that companies using AVMs must disclose their use to customers and allow customers to request nonautomated appraisals or seek valuation from alternative AVMs.** The FHFA can do so using its broad authority in Section 1125 to "account for any other such factor that the agencies ... determine to be appropriate."[8] This would align with the statute's purpose to "ensure a high level of confidence in [AVMs]," "protect against the manipulation of data," and "avoid conflict of interest."[9]

# Endnotes

1 Executive Office of the President, "Executive Order 14110: Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence," Federal Register 88 (210) (2023): 75191–75226, available at https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence; Office of Fair Housing and Equal Opportunity, "Guidance on Application of the Fair Housing Act to the Advertising of Housing, Credit, and Other Real Estate-Related Transactions through Digital Platforms" (Washington: U.S. Department of Housing and Urban Development, 2024), available at https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO_Guidance_on_Advertising_through_Digital_Platforms.pdf; American Civil Liberties Union and others, "Re: Addressing Technology's Role in Housing Discrimination," July 13, 2021, available at https://www.upturn.org/static/files/letter-to-ostp-on-housing-technologies-20210713.pdf; Office of Fair Housing and Equal Opportunity, "Part 109--Fair Housing Advertising," available at https://www.hud.gov/sites/dfiles/FHEO/documents/BBE%20Part%20109%20Fair%20Housing%20Advertising.pdf (last accessed March 2024).

2 Office of Public Affairs, "Justice Department Secures Groundbreaking Settlement Agreement with Meta Platforms, Formerly Known as Facebook, to Resolve Allegations of Discriminatory Advertising," Press release, U.S. Department of Justice, June 21, 2022, available at https://www.justice.gov/opa/pr/justice-department-secures-groundbreaking-settlement-agreement-meta-platforms-formerly-known.

3 See, for example, Harlan Yu, Aaron Rieke, and Natasha Duarte, "Urging the Biden Administration to Address Technology's Role in Housing Discrimination," Upturn, July 13, 2021, available at https://www.upturn.org/work/proposals-for-the-biden-administration-to-address-technology-housing/.

4 Office of Fair Housing and Equal Opportunity, "Guidance on Application of the Fair Housing Act to the Advertising of Housing, Credit, and Other Real Estate-Related Transactions through Digital Platforms."

5 Dennis Kelleher, "Re: Quality Control Standards for Automated Valuation Models – OCC Docket ID OCC – 2023-0002; Board Docket No. R-1807 and RIN No. 7100 AG60; FDIC RIN 3064-AE68; NCUA Docket Number NCUA-2023-0019 and RIN 3133-AE23; CFPB Docket No. CFPB-2023-0025; FHFA RIN 2590-AA62; 88 Fed. Reg. 40638 (Jun. 21, 2023)," Better Markets, August 21, 2023, available at https://www.regulations.gov/comment/OCC-2023-0002-0011. See Rica Dela Cruz and Gaby Villaluz, "Nonbank lenders shed mortgage market share as originations plummet in 2022," S&P Global, July 13, 2023, available at https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/nonbank-lenders-shed-mortgage-market-share-as-originations-plummet-in-2022-76481554.

6 National Institute of Standards and Technology, "NIST AI RMF Playbook," available at https://airc.nist.gov/AI_RMF_Knowledge_Base/Playbook (last accessed February 2024).

7 Shalanda D. Young, "M-24-10 Memorandum for the Heads of Executive Departments and Agencies: Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence" (Washington: Office of Management and Budget, 2024), available at https://www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance-Innovation-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf.

8 Legal Information Institute, "12 U.S.C. § 3354 - Automated valuation models used to estimate collateral value for mortgage lending purposes," available at https://www.law.cornell.edu/uscode/text/12/3354 (last accessed May 2024). See, for example, Alexei Alexandrov, Laurie Goodman, and Michael Neal, "Reengineering the Appraisal Process: Better Leveraging Both Automated Valuation Models and Manual Appraisals" (Washington: Urban Institute, 2023), p. 18, available at https://www.urban.org/sites/default/files/2023-01/Reengineering%20the%20Appraisal%20Process.pdf.

9 Legal Information Institute, "12 U.S.C. § 3354(a)(1)–(3)."