



December 3, 2018

Gerard S. Poliquin  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

*Submitted electronically  
to regcomments@ncua.gov*

RE: Comments on Proposed Rule part 722, Real Estate Appraisals

Dear Mr. Poliquin,

The Credit Union Association of the Dakotas (CUAD) appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) regarding its proposed rulemaking concerning real estate appraisals under part 722. To provide a brief background, the Credit Union Association of the Dakotas represents state and federally chartered credit unions in the states of North Dakota and South Dakota, who have more than 494,000 members.

CUAD fully supports the NCUA in the positive steps it is taking to reduce the unnecessary regulatory burden with respect to nonresidential real estate transactions. Specifically, CUAD supports amendments to Part 722 increasing the threshold below which appraisals would not be required for nonresidential real estate transactions from \$250,000 to \$1,000,000.

CUAD appreciates the NCUA's role and acknowledges that it must operate within the confines of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI) which directs each federal financial institution regulatory agency to publish appraisal regulations for federally related transactions within its jurisdiction. As discussed in the proposed rule, "Title XI, expressly authorizes the agencies to establish a threshold level at or below which an appraisal by a state certified or state licensed appraiser is not required in connection with federally related transactions if the agencies determine in writing that the threshold does not represent a threat to the safety and soundness of financial institutions." *83 FR 49865, October 3, 2018*. CUAD agrees with the NCUA that increasing the threshold for non-residential real estate transactions to \$1 million will not create safety and soundness issues for credit unions and in fact will allow credit unions to be able to offer similar products as others in the financial industry without borrowers incurring unnecessary fees for appraisals that aren't required by other lenders.

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Despite what some in the appraisal industry may claim, there are many variables beyond appraisals that impact a loan's performance. As pointed out by the NCUA in the discussion of this proposed rule, "Analysis of supervisory information concerning losses on commercial real estate transactions suggests that faulty valuations of the underlying real estate collateral have not been a material cause of losses. In the last three decades, the banking industry suffered two crises in which poorly underwritten and administered commercial real estate loans were a key feature in elevated levels of loan losses, and bank and credit union failures." *83 FR 49866*. Increasing the threshold for nonresidential real estate transactions that will be excluded from requiring an appraisal provides a direct benefit to the member. Members may be able to save several hundred dollars per transaction. Additionally, members will not be required to wait as long to receive an evaluation as there are more individuals qualified to conduct written estimates of market value than state-certified appraisers.

The proposed rule defines the term "residential real estate transaction" to mean "a real estate-related financial transaction that is secured by a single 1-to 4-family residential property." *83 FR 49868*. This definition would then be used to identify which federally related transactions would still be subject to the \$250,000 appraisal threshold.

As noted by the NCUA in the proposed rule, "Under the other banking agencies' 2018 final rule, a loan that is secured by a single 1-to 4- family residential property, including a loan for construction, remains subject to the \$250,000 threshold. Accordingly, the NCUA is proposing to take the same approach in its appraisal regulation by including any loan for construction of a one, two, three, or four individual dwelling units, including manufactured homes permanently affixed to the underlying land as a single 1-to 4- family residential property." *83 FR 49861*. CUAD respectfully requests that the NCUA reconsider this stance, especially as it relates to the construction of a 1-to 4- residential real estate transaction and non-owner occupied 1-to 4- residential real estate transactions.

As explained in the NCUA Examiner's Guide, Commercial and Member Business Loans, "Loans secured by a 1-to 4- family residential property, whether or not it is the borrower's primary residence (that is, owner or non-owner occupied), are not commercial loans. However, when such residential properties are used for business or investment purposes, these loans have risk characteristics more similar to commercial real estate loans than those of owner-occupied 1- to 4-family residential loans." However, as it relates to appraisal requirement, a 5-unit residential property would not require an appraisal if the transaction was under \$1 million, but 1- to 4- unit dwelling would retain the \$250,000 threshold. CUAD does not believe a 1- to 4- unit dwelling that is non-owner occupied is more complex than a nonresidential real estate transaction as defined by this proposed rule and therefore these borrowers should be afforded the same regulatory relief as someone building and/or investing in a 5-unit structure.



Non-owner occupied 1- to 4- family dwellings are purchased by FCU members for a number of reasons, from a source of personal and/or retirement income, to members providing affordable housing to young adult children or aging parents. Removing the unnecessary requirement for an appraisal will help control costs for these transactions as well. CUAD urges the NCUA to increase the threshold for which an appraisal would be required for these transactions to \$1 million as well. We agree with the proposed reorganization of Part 722.3 to clarify when appraisals or written estimates of market value are required for real estate-related financial transactions. The proposed rule would identify categories as “(a) whether the real estate-related financial transaction does not require an appraisal or written estimate of market value under part 722; (b) when an appraisal required under part 722 must be prepared by a state-certified appraiser; (c) when an appraisal required under part 722 may be prepared by either a state-certified or state-licensed appraiser; and (d) when only a written estimate of market value is required.” 83 FR 49861

Proposed section 722.3(d) outlines when a transaction requires a written estimate of market value. Unless fully insured or guaranteed by a United States government agency or United States government sponsored agency, exempt under other provisions of the rule, or an appraisal performed by a state-certified or state-licensed appraiser was obtained, any real estate-related financial transaction must be supported by a written estimate of market value. CUAD believes there should be a de minimis threshold when the uninsured or unguaranteed portion of transactions is below a certain dollar amount that would exempt it from written estimate of market value requirements. CUAD suggests this de minimis threshold be \$100,000.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

A handwritten signature in black ink that reads "Jeffrey Olson".

Jeffrey Olson  
CEO/President

A handwritten signature in black ink that reads "Amy Kleinschmit".

Amy Kleinschmit  
Chief Compliance Officer