Northwest Credit Union Association
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December 1, 2018

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Delivered Electronically

Subject: Proposed Rule Part 722, Real Estate Appraisals

Dear Mr. Poliquin,

On Wednesday, October 3, 2018, the National Credit Union Administration (NCUA) board issued a notice of proposed rulemaking (NPRM) that would amend the agency's current appraisal rules. Among other changes, the proposed rule would increase the appraisal threshold for non-residential real estate transactions and exempt properties valued at $400,000 or less, located in a rural area where no state-certified or state-licensed appraiser is available, from the appraisal requirements.

The Northwest Credit Union Association (Association)[1] is pleased to be able to offer comments on the proposed appraisal amendments. The Association also appreciates the NCUA Board and staff support of a regulatory system that allows for a reduced regulatory burden concerning appraisals for certain real estate transactions.

General Comments

Appraisals provide protection for all parties in a real estate related transaction by ensuring the value of the property supports the loan request. However, as identified in the NCUA's notice of proposed rulemaking, an appraisal is not always possible or necessary to ensure that the value is sufficient for the intended loan.

On May 24, 2018, the President signed the Economic Growth, Regulatory Relief, and Consumer Protection Act into law which exempts certain federally related rural real-estate transactions valued below $400,000 from the appraisal requirements if no state-certified or state-licensed appraiser is available. In order to support clarity within the regulations regarding the updated statute, the NCUA's NPRM is consistent with the Act in that it exempts the above-mentioned real estate transactions from appraisals. The Association supports and appreciates the clarity that this amendment to the regulation will provide for all federally insured credit unions.

[1] The Northwest Credit Union Association is a regional trade association representing the interests of more than 180 credit unions and their 6.5 million consumer-members; institutions that employ and engage more than 19,000 people and hold more than $90 billion in aggregate assets. The Association is a nonpartisan advocacy organization representing the interests of its member institutions on a variety of systemically important banking issues.

Credit unions affiliated with the Association are principally domiciled in Idaho, Oregon, and Washington, but the Association also has members from the states of Alaska, California and Hawaii. Learn more about the Association at www.nwcua.org.

Specific Comments

This NPRM provides a strong framework for necessary updates to the appraisal regulations. We support the NCUA's proposal to increase the non-residential real estate appraisal threshold to $1,000,000 and believe that this will relieve the regulatory burden in certain cases. However, we do have concerns with the NCUA's intended definition change of a new loan, as it would likely cause an increased burden on credit unions when extending, renewing, or modifying a real-estate secured loan.

Increase for non-residential real estate transactions

Credit unions are historically risk adverse and strive to perform in a manner that serves their members while also maintaining safe and sound lending practices. The NPRM does exempt certain non-residential real estate loans from appraisals, but it also mandates that the determination of obtaining an appraisal or written estimate of market value be done so in a manner that is consistent with safe and sound lending practices. The flexibility allowed in this area reduces the regulatory burden for credit unions in the event that they determine a non-residential real estate transaction valued below $1,000,000 not rise to the level of needing a full appraisal. However, credit unions still have the option to obtain an appraisal from a state-certified or state-licensed appraiser, should they deem it appropriate. The proposed increase provides credit unions with the much-needed flexibility to determine when a loan with a value under the proposed threshold would or would not require an appraisal from a safety and soundness perspective.

Definition of new loan under GAAP

Currently, NCUA Part 722.3 subsection (5) exempts existing extensions of credit from the appraisal requirements provided that there is no advancement of new money (other than reasonable funds for closing costs) and there has been no obvious or material change in market conditions or physical aspects of the property. This has worked well for credit unions and helps keep the regulatory burden low in this area by not requiring new appraisals for loan renewals, extensions, or modifications. The proposed change outlined in 722.3(a)(1) excludes only loans that do not meet the definition of a new loan under Generally Accepted Accounting Principles (GAAP). Footnote 45 in the NPRM defines a new loan under GAAP as:

> ASC 320–20–20: Lending, committing to lend, refinancing or restructuring loans, arranging standby letters of credit…
> ASC 310–20– 35–9: If the terms of the new loan resulting from a loan refinancing or restructuring other than a troubled debt restructuring are at least as favorable to the lender as the terms for comparable loans to other customers with similar collection risks who are not refinancing or restructuring a loan with the lender, the refinanced loan shall be accounted for as a new loan. This condition would be met if the new loan's effective yield is at least equal to the effective yield for such loans and modifications of the original debt instrument are more than minor….

The exemption under the current Part 722.3(a)(5) provides better clarity and guidance to credit unions when determining if a new appraisal is required. The purpose of an appraisal is to reduce the risk to both the lender and the borrower. The extension, modification or renewal of a loan with no new funds, in conjunction with ensuring that there has been no material change in the market or property, is consistent with ensuring the safety and soundness of the loan. The Board indicated in the commentary that it does not believe that linking this exemption to Generally Accepted Accounting Principles will result in any substantial change from current practice. As such, we would encourage the NCUA to retain the current exemption outlined 722.3(a)(5) in place of 722.3 (a)(1). At a minimum the NCUA must provide examples on how the exemption outlined in 722.3(a)(1) could be applied in a similar manner to the current 723.3(a)(5).

> The transaction involves an existing extension of credit at the lending credit union, provided that: There is no advancement of new monies, other than funds necessary to cover reasonable closing costs; or There has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the credit union's real estate collateral protection after the transaction, even with the advancement of new monies;

Retaining this exemption would also ensure that the NCUA's rule remains consistent with the other federal banking agencies. The FDIC, FRB, and OCC did not see the need to update this exemption language in their recent rule updates[2]. The language found in the other agencies' rules, 12 CFR 323.3(a)(7), 12 CFR 225.63(a)(7), and 12 CFR 34.43(a)(7), respectively, match the exemptions currently listed in NCUA's Part 722.3(a)(5).

Conclusion

In conclusion, the Association and its member credit unions appreciate the consideration that the Board has put into the NPRM for NCUA's Part 722. The rule provides much needed clarity and flexibility. Our only specific request, at this time, is that the NCUA reconsider the adoption of the GAAP definition of new loans and retain the existing language found in 12 CFR 722.3(a)(5) in order to maintain the NCUA's commitment to reduced regulatory burden and clarity.

We appreciate the NCUA's commitment to improving the regulatory landscape for credit unions. Thank you again for the opportunity to comment on this issue. We would be pleased to answer any questions you may have.

Respectfully,
Katie Clark

Katie Clark
Director, Regulatory Compliance and Risk Management
Northwest Credit Union Association

[2] 83 FR 15035, April 9, 2018: Real Estate Appraisals Final Rule