American Bankers Association
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Sharon Whitaker, Vice President
Commercial Real Estate & Finance
Mortgage Markets, Financial
Management & Public Policy
(202) 663-5321
SWhitaker@aba.com

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Gerald S. Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
Email: regscomments@ncua.gov [Sharon Whitaker American Bankers Association]

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

Dear Mr. Poliquin:

The American Bankers Association (ABA)[1] appreciates the opportunity to provide comments on the National Credit Union Administration (NCUA) proposed rule on Real Estate Appraisals.[2] In this proposal, NCUA would amend regulations requiring appraisals of real estate for certain transactions. The proposal would dramatically quadruple the threshold level at or below which appraisals would not be required for commercial real estate transactions from $250,000 to $1,000,000. This proposal would create inconsistent supervision of financial institutions based solely on charter type, and puts NCUA's regulatory treatment of credit unions dramatically out-of-step with its sister agencies, which in April—just seven months ago—jointly raised the threshold for the institutions they supervise to only $500,000. The proposal also solicits comments on multiple questions relating to exemptions for appraisal requirements for real estate transactions.

Increasing the threshold for NCUA-supervised institutions beyond that of other members of the Federal Financial Institutions Examination Council (FFIEC) should be rejected. This proposal, the latest in the long line of NCUA's misguided and fundamentally unfair efforts that enable tax-subsidized credit unions to have a competitive advantage over the banking industry through disparate and less stringent regulatory supervision, should be evaluated in the context of the broader financial services landscape. Two different standards for commercial real estate lending appraisal thresholds or any other real estate lending thresholds, made by what are functionally-equivalent lending institutions, would negatively impact prudent risk management practices and undermine local economic markets. Ultimately, commercial real estate loan concentrations at the credit union portfolio level will increase risk and would pressure prudent risk management practices across the board. To ensure safety and soundness of commercial real estate assets, we strongly implore NCUA to adopt standards that are consistent and align with the rest of the financially regulated institutions as members of the FFIEC.

1 The American Bankers Association is the voice of the nation's $17 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $13 trillion in deposits and extend nearly $10 trillion in loans.

2 83 FR 49857

As NCUA is aware, the appraisal threshold review is in response to the Economic Growth and Regulatory paperwork Reduction Act (EGRPRA), and ABA does not oppose credit unions enjoying the benefit of an increased $500,000 threshold that aligns with the recently changed standard adopted on April 9, 2018 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation. Additionally, NCUA should collaborate with the joint regulators in newly proposed rulemaking for residential real estate transactions and mirror the same proposal standards being considered for comment currently.

We strongly believe the regulatory standards for appraisals should be consistent for all interagency bodies that regulate financial institutions within FFIEC. Since the establishment of FFIEC in March 1979, regulatory standards and regulatory changes regarding appraisals have remained uniform for all institutions under this umbrella. Indeed, uniformity in supervision is why FFIEC exists:

> *The Council is a formal interagency body empowered to prescribe uniform principles, standards and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC) and the Consumer Financial Protection Bureau (CFPB) and* ***to make recommendation to promote uniformity in the supervision of financial institutions***.[3]

In enacting Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Congress long ago recognized the importance of stable, safe and sound real estate markets, and embedded a holistic approach to the appraisal standards through regulatory oversight that must be standardized. FIRREA requires that federally regulated financial institutions, including credit unions, use state certified or licensed appraisers to perform appraisals in federally related transactions. Creating inconsistent *de minimis* thresholds, which NCUA proposes to be twice the amount for prudentially regulated banks, coupled with different definitions for appraisal requirements on refinances, renewals and trouble debt restructures (TDRs), along with a myriad of other standards being recommended for change throughout the proposed rule, critically undermines Congressional intent in requiring all types of charters to be subject to these standards.

Consequences of Double Standards

Moreover, by creating two different standards for commercial real estate lending appraisal requirements, NCUA will create inconsistent practices in the marketplace that that will polarize industry methods and undermine prudent risk management. If the exemption is arbitrarily expanded for one charter over another, the impact will be significant and will include unintended consequences such as: a) undermining banks' ability to compete for commercial real estate loans due to significant fee concessions by one segment of the marketplace; b) creating increased risk within the credit union industry through higher concentrations of commercial real estate pools

[3] FFIEC, About The FFIEC, Mission, https://www.ffiec.gov/about.htm

(originated without appraisals); c) increasing the burden of operational oversight of risk management controls at individual credit unions, who must now assess the level of risk within their commercial real estate portfolio, while also increasing the regulatory exam requirements of NCUA necessary for the expanding CRE concentrations.

General Comments

Besides strongly objecting to the proposal for the appraisal threshold, we wanted to address these additional questions posed by the NCUA:

- **Proposed § 722.3 (a)(1)-(6) General Accounting Principles ASC 320-20-20**
  We do not support changing the current definition of when an appraisal is required to the new proposed definition. General Accounting Principles ASC 320-20-20 is a more clearly defined or a better standard. When reviewing GAP ASC 320-20-20 it appears that loans when classified as TDRs will not require an appraisal. We believe consistency and standardization of appraisals for originations, renewals and classified assets should be a uniform standard for all federally regulated institutions and the definitions should remain the same and not be changed to a GAP definition.

- **Proposed Removal of Appraisals and Written Estimates Requirement for Transactions Fully or Partially Guaranteed by a U.S. Government Agency**
  We do not believe transactions that are fully or partially guaranteed by a U.S. government agency should qualify for exemption from the requirement for an appraisal or a written estimate of value. For example, an origination for the Small Business Administration 504 Program would not require any type of appraisal or written estimate. This provides a competitive advantage to those institutions regulated by the NCUA—with no business or other justification. In the end, the ultimate risk falls to the taxpayers since the government guarantees the loans. As such, we believe the standards for equal loan products should be consistent and unified for all federally examined institutions.

- **Change in the Use of State Certified Appraisers**
  We believe all federally insured institutions examined by the interagency bodies within FFIEC should have the same requirement for the use of State Certified Appraisers for all commercial real estate transactions over $500,000, at the requirement set uniformly by all of the agencies.

Conclusion

Consistency in the marketplace serves to assure level lending standards. Consistent appraisal requirements assure equal credit opportunities in the marketplace by providing coherent risk management criteria that support the continued stabilization of the commercial real estate markets across the nation. One segment of the financial industry should not be allowed to gain competitive advantage via arbitrary differences in regulation to serve the commercial real estate marketplace, and NCUA should not foster such competitive advantages that hold credit unions to an alternative standard.

The rules under which financial institutions must operate should be transparent and consistent for all federally insured institutions. Over a considerable time period, FFIEC has judicially measured risk, and the outcome and standards forged by this experience should be recognized and duly respected. NCUA bears a heavy burden in departing from its sister regulators, one that calls for much deeper analysis and more careful consideration of risk than has been undertaken in a proposed rulemaking that is arbitrary and capricious. FFIEC and all participating agencies should uniformly agree to abide by consistent standards, rulemaking and thresholds that are now in jeopardy as a result of this proposal.

ABA appreciates the opportunity to comment on this proposal. If you have any questions about the content of this letter, please contact Sharon Whitaker at 202-663-5321.

Sincerely,

Sharon L Whitaker

Cc: Jelena McWilliams, Chairman, Federal Financial Institutions Examination Council

Mick Mulvaney, Vice Chairman, Federal Financial Institutions Examination Council

Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation

Joseph M. Otting, Comptroller of the Currency

Randal K. Quarles, Vice Chairman, Federal Reserve Board of Governors