November 3, 1992

Ray C. Burnett
Mid-Minnesota Federal Credit Union
P.O. Box 309
Brainerd, MN 56401

Re: Valuations (Your September 29, 1992, Letter)

Dear Mr. Burnett:

You have asked whether your valuation program meets the re- quirements set forth in NCUA's Rules and Regulations. Your policy of permitting payment to loan officers for valuations is permissible, although another aspect of your valuation policy may violate NCUA's Regulations.

BACKGROUND

Mid-Minnesota Federal Credit Union (FCU) has a policy that all home improvement loans in excess of $15,000 require a drive by valuation by a loan officer. The loan officer writes a valuation based on his agreement or disagreement with the current tax assessment and attaches at least one picture to the valuation. The loan officer does the valua- tion after business hours and is reimbursed ten dollars per valuation plus mileage costs. If the loan officer does not feel comfortable doing the valuation he has the option of or- dering an appraisal by a fee appraiser.

ANALYSIS

As you know, Section 722.3(a)(1) of NCUA's Rules and Regula- tions (12 C.F.R. 722.3(a)(1)) states that an appraisal is not required for any real estate-related financial transaction in which the transaction value is $50,000 or less. Section 722.3(d) requires that:

Secured transactions exempted from appraisal requirements pursuant to paragraph (a)(1) of this section (transactions of $50,000 or less) and not otherwise exempted from this regulation shall be supported by a written estimate of market value, as defined in this regulation, performed by an individual having no direct or indirect interest in the property, and qualified and experienced to perform such estimates of value for the type and amount of credit being considered.

The preamble to the final regulation (55 F.R. 30204, 7/24/90) states that:

. . . . the valuation should be performed by an individual who is qualified and experienced with the type of property being valued and has no direct or indirect interest in the property being evaluated. The valuation should reasonably estimate market value, as defined in section 722.2(f), with sufficient accuracy to protect the credit union's interest throughout the term of the loan.

Section 722.5 of NCUA's Regulation (12 C.F.R. 722.5) on ap- praiser independence does not apply to valuations, only ap- praisals. However, the avoidance of a conflict of interest is addressed in the valuation requirement. An FCU employee may perform this valuation as long as the employee is qualified and has no direct or indirect interest in the prop- erty. It does not violate NCUA's Appraisal Regulation for an FCU employee to be paid for performing the valuation. Fur- thermore, the payment appears to be part of the loan officer/valuator salary rather than a commission or incentive pay. Hence, we do not believe there is a violation of Sec- tion 701.21(c)(8) of the Regulations since the payment for the valuation is properly viewed as overtime salary and does not create any incentive on the part of the loan officer to put his self interest ahead of the credit union's interest in making good loans.

One additional note. It is unclear from your letter whether home improvement loans under $15,000 receive a valuation. All loans secured by real estate under $50,0000 must receive a valuation unless otherwise exempted from the requirement in order for your FCU to comply with Section 722.3(d) requirements.

Sincerely,

Hattie M. Ulan
Associate General Counsel

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