

December 03, 2018

National Credit Union Administration  
Gerald Poliquin, Secretary of the Board  
1775 Duke Street  
Alexandria, VA 22314-3428

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

Dear Mr. Gerald Poliquin,

I am writing on behalf of the California and Nevada Credit Union Leagues (Leagues), one of the largest state trade associations for credit unions in the United States, representing the interests of more than 260 credit unions and their approximately 10.7 million members.

The Leagues welcome the opportunity to provide comments to the National Credit Union Administration (NCUA) on the proposed rule regarding real estate appraisals. We applaud the NCUA Board (Board) for its efforts to make commercial real estate appraisal standards for credit unions more consistent with those for banks, restructure the regulation to provide more clarity around appraisal requirements, and incorporate the rural exemption provided by the Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155). While we generally support the objectives of the proposed rule, we do have some concerns, and we respectfully offer the following comments and recommendations.

#### **Appraisal Requirements – Non-Residential Transactions – Part 722.3(b)(1)**

In April 2018 the other banking agencies issued a final rule that established a separate threshold of \$500,000 for commercial real estate appraisals; representing an increase from the current threshold of \$250,000 for all real estate-related financial transactions

The NCUA Board proposes to increase the threshold at which non-residential real estate-related financial transactions are exempt from appraisal requirements from \$250,000 to \$1 million. Proposed §722.3(b)(1) requires an appraisal performed by a state-certified appraiser for transactions that are not otherwise exempt and the transaction value is \$1 million or more. For commercial real estate-related financial transactions with transaction values below \$1 million, credit unions would be able to use their judgment, consistent with safe and sound lending practices, to determine whether to use an appraisal or a written estimate of market value.

The Leagues support an increase to the appraisal threshold for non-residential real estate transactions; however, we recommend the threshold be increased from \$250,000 to \$500,000. We believe a \$500,000 threshold is appropriate as it would promote safe and sound lending practices, place credit unions on par with other banking agencies, and not expose the National Credit Union Share Insurance Fund (NCUSIF) to excessive risk.

#### **Appraisal Requirements Exemptions**

##### Exemption - Existing Extensions of Credit [§722.3(a)(1)]

Current §722.3(a)(5) provides an appraisal exemption for existing extensions of credit provided there was “(i) no advancement of new monies, other than funds necessary to cover reasonable closing costs; or (ii) 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.”

We support proposed §722.3(a)(1) which replaces the above and provides that an appraisal or written estimate of market value is not required for a real estate-related financial transaction that involves an existing extension of credit and is not considered a new loan under Generally Accepted Accounting Principles (GAAP). We believe

that linking the exemption to GAAP will eliminate subjectivity, align transactions with GAAP reporting standards, and increase consistency.

We also support the amendment as it clarifies that an appraisal or written estimate of market value is not required for all modifications, workouts, or troubled debt restructurings of existing loans and that credit unions should use sound judgement in determining when a written estimate of market value, or an appraisal, is warranted to support a loan workout.

#### Exemption - Fully or Partially Guaranteed by a U.S. Government Agency

Under the current rules, any real estate-related financial transaction that is insured or guaranteed by a U.S. government agency or U.S. government-sponsored agency (regardless of whether the insurance or guarantee is for the full transaction value or only a part of the transaction value) are exempt from appraisal and written estimate of market value requirements.

The Leagues support the proposal that both “complex” and “non-complex” residential real estate transactions that are partially insured or guaranteed by a U.S. government agency or U.S. government sponsored agency, but have \$250,000 or more of the transaction value not insured or guaranteed, would be required to have a state-certified appraisal. The proposed amendment will likely have little impact on a credit union’s operations.

To provide credit unions with the ability to take advantage of the Government Sponsored Enterprises (GSEs) property appraisal waivers, the NCUA should also clarify and provide that residential transactions that are originated and initially guaranteed or insured by a government agency or a government sponsored agency are exempt from the appraisal requirements, including when a loan is subsequently repurchased and placed in the credit union’s portfolio. The repurchased loan shall not be deemed to be out of compliance with the appraisal regulations. This clarification will also allow credit unions to better compete with lenders that offer borrowers a conforming mortgage without an appraisal.

#### De Minimum Threshold

Under proposed §722.3(d), any real estate-related financial transaction must be supported by a written estimate of market value unless it is: (i) fully insured or guaranteed by a U.S. government agency or U.S. government sponsored agency, (ii) exempt under paragraph 722.3(a), or (iii) an appraisal performed by a state-certified or state-licensed appraiser was obtained. The Board, however, is seeking comment on whether the NCUA should establish a de minimis threshold for transactions.

The Leagues support a de minimis threshold amount, such as \$50,000, for exemption from a written estimate of value. Lenders routinely make unsecured loans for small loan amounts and effectively manage the credit risk of these small loans. Establishing a de minimis threshold will benefit members in reduced costs and time to originate a loan. We recommend that credit unions be permitted to apply this exemption on a case-by-case basis rather than to 100 percent of loans that fall below the threshold.

### **Clarifying Amendments and Definitions**

#### Restructure Part 722.3

The Leagues support the proposed restructure of Part 722.3 and agree that it provides clarity regarding the types of transactions that require a written estimate of market value, an appraisal conducted by a state-licensed appraiser, or an appraisal conducted by a state-certified appraiser.

#### Definition of Complex

The proposed definition for complex, when used in regard to a real estate-related financial transaction, means a transaction in which the property to be appraised, the form of ownership, or market conditions are atypical. The proposed definition would also state that a regulated institution may presume that appraisals of 1– to 4–family residential properties are not complex unless the institution has readily available information that a given appraisal will be complex.

The Leagues recommend the NCUA provided additional guidance or commentary on what attributes would constitute “complex” or “atypical.” Additional guidance and attributes should be made available so credit unions can readily determine the type of appraisal required. Fully understanding the definition of complex will save

credit unions time and costs by avoiding later discovery and having to order a new appraisal with a state certified appraiser after the completion by a stated licensed appraiser.

### **Appraisal Threshold – Residential Real Estate Transactions**

On November 20, 2018, the other banking agencies issued a joint proposed rule to increase the threshold for residential real estate transactions requiring an appraisal from \$250,000 to \$400,000. The proposal would require that residential real estate transactions exempted by the threshold obtain an evaluation consistent with safe and sound banking practices. This proposal responds, in part, to comments that the current exemption level for residential transactions has not kept pace with price appreciation in the residential real estate market. The Leagues strongly recommend the NCUA provide parity with the banking agencies so as to not create a competitive disadvantage.

### **Conclusion**

The Leagues thank the Board for their efforts to modernize and clarify the appraisals regulation. We agree that credit unions should have regulatory limits that are on par with other banking agencies, and we recommend the appraisal threshold be increased to \$500,000 for non-residential real estate loans and to \$400,000 for residential real estate loans.

Thank you for the opportunity to comment on the proposed rule and for considering our views and recommendations. If you have any questions regarding our comments, please contact me.

Sincerely,

Diana Dykstra  
President and CEO  
California and Nevada Credit Union Leagues

cc: CCUL