

December 3, 2018

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

12 CFR Part 722
RIN 3133-AE79

Proposed Rule: Real Estate Appraisals

Dear Sir or Madam:

NAHB is pleased to submit comments on the proposed rule to amend regulations requiring appraisals of real estate for certain transactions, released by the National Credit Union Administration (NCUA).

NAHB is a Washington DC-based trade association representing more than 140,000 members involved in the development and construction of for-sale single family homes, including homes for first-time and low- and moderate-income homebuyers, as well as the construction, ownership and management of multifamily rental housing, including affordable rental housing.

NAHB and its members have a strong interest in supporting a housing finance system that offers home builders and home buyers access to affordable mortgage financing in all geographic areas, in all economic conditions. The process to evaluate the collateral supporting real estate transactions is an important component of the overall housing finance system.

NAHB supports efforts that provide streamlined processes and reduce regulatory burdens for both single family and multifamily housing. NAHB estimates that, on average, regulations imposed by all levels of government account for 24.3 percent of the sales price of a new single family home and 32.1 percent of the cost of an average multifamily development. Therefore, reducing regulatory burden and providing flexibility to financial institutions will help facilitate the production of new housing.

Background on Appraisal Requirements

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI) directs each federal financial institutions regulatory agency to publish appraisal regulations for federally related transactions (FRTs) within its jurisdiction.

A federally related transaction (FRT) is defined as a real estate-related financial transaction that is regulated or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser. A real estate-related financial transaction is defined as any transaction that involves: (i) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

Title XI requires that real estate appraisals used in connection with FRTs (Title XI appraisals) be performed in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. At a minimum, Title XI appraisals must be: (1) performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP); (2) written appraisals, as defined by the statute; and (3) subject to appropriate review for compliance with USPAP.

The federal financial institutions regulatory agencies have authority to determine those real estate-related financial transactions that do not require the services of a certified or licensed appraiser and are therefore exempt from the appraisal requirements of Title XI. In 1992, Congress amended Title XI, expressly authorizing the agencies to establish a threshold level at or below which an appraisal by a state certified or licensed appraiser is not required in connection with FRTs if the agencies determine in writing that the threshold does not represent a threat to the safety and soundness of financial institutions.

In 1994, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency (“the other banking agencies”) established the threshold of \$250,000 for all real estate-related financial transactions. The real estate-related financial transactions at or below this threshold require an evaluation of the real property collateral but evaluations need not be performed in accordance with USPAP or by certified or licensed appraisers. NCUA subsequently established a similar Title XI appraisal threshold for most real estate-related transactions.

In 2018, the other banking agencies raised the threshold from \$250,000 to \$500,000 for commercial real estate transactions. Transactions secured by a single one-to-four family residential real estate, including one-to-four family residential construction loans, were left at the \$250,000 threshold. NCUA was consulted on this change, but did not participate in this rulemaking.

Overview of the Proposed Rule

The NCUA has issued a proposed rule that would increase the threshold for requiring an appraisal on non-residential (commercial) real estate-related transactions from the current level of \$250,000 to \$1,000,000. For commercial real estate-related financial transactions values below \$1,000,000, credit unions would be able to use their judgment, consistent with safe and sound lending practices, to determine whether to use an appraisal or written estimate of market value.

The NCUA is proposing to define a “residential real estate transaction” as a real estate-related financial transaction that is secured by “a single one-to-four family residential property, including loans for the construction of a one, two, three or four individual dwelling units and manufactured homes permanently affixed to the underlying land.” These residential real estate transactions would remain subject to the \$250,000 threshold.

NAHB Comments

Commercial Real Estate Loans

NAHB appreciates the NCUA’s efforts to identify areas where regulatory burden can be reduced without negatively impacting safety and soundness and encourages the NCUA to continue this work. NAHB believes that increasing the appraisal threshold for commercial real estate loans from \$250,000 to \$1,000,000 is a positive step. Commercial real estate loans of \$1,000,000 and less are typically made to small builders and developers who are more disproportionately impacted by added financing costs.

As the NCUA asserts in the proposal, raising the threshold to \$1,000,000 for commercial loans may exempt more commercial real estate transactions from the appraisal requirements and would provide relief from regulatory burden without increasing safety and soundness risk. Using the CoStar Comps database set, the NCUA projects that an additional 39 percent of commercial real estate loans would not require an appraisal with this updated threshold, but that almost 90 percent of the dollar volume of such transactions would be subject to appraisal requirements.

NAHB appreciates that the NCUA is providing credit unions with flexibility with regard to appraisal requirements. Credit unions are designed to meet the unique needs of their members and are an important source of financing for their communities. Multifamily is a key source of housing for low to moderate-income families and reducing financing costs can result in lower rents.

To ensure a smooth implementation of this proposed rule and avoid any confusion, NAHB encourages the NCUA to clarify that “commercial real estate transactions”, for the purpose of developing, building or renovating multifamily properties, is included in the definition of “non-residential real estate transactions” and will be subject to the increased threshold. The multifamily projects that would fall under this threshold tend to be smaller and are the most likely to experience difficulty in obtaining financing and higher transactions costs, especially in rural areas.

Single Family Financing

The NCUA proposes to retain the threshold for single family residential transactions at \$250,000 for both home buyers and home builders. NAHB encourages the NCUA to further review this threshold to see if more flexibility could be provided to lenders with sound underwriting criteria and processes in place.

Recently, the other banking agencies released a proposal to increase the threshold for residential real estate transactions requiring an appraisal from \$250,000 to \$400,000. NAHB encourages the NCUA to continue to engage with the other banking agencies on this effort and consider providing additional flexibility to credit unions while ensuring they maintain sufficient safety and soundness standards.

Conclusion

Thank you for your consideration of NAHB’s comments. NAHB looks forward to working with the NCUA and all housing market participants to promote a responsible and robust lending environment.

Please contact Curtis Milton, NAHB’s Director of Single Family Finance (email: cmilton@nahb.org or phone: 202-266-8597) if you have any questions about this letter.

Sincerely,



David L. Ledford