Transactions Insured or Guaranteed by a United States Government Agency or United States Government Sponsored Agency

NCUA's appraisal regulation currently provides that loans insured or guaranteed by an agency of the United States government are exempt from NCUA's appraisal requirements. The Board proposed to delete the requirement that the transaction be supported by an appraisal that conforms to the requirements of the insuring or guaranteeing agency. Five commenters supported this amendment. One commenter objected to it on safety and soundness grounds. The Board believes that loan program standards sufficiently protect credit unions since in order to receive the insurance or guarantee, the transaction must meet all underwriting requirements of the insurer or guarantor, including real estate appraisal or valuation requirements. It is unnecessary to require these transactions to also meet the overlapping requirements of NCUA. Moreover, this exemption will eliminate the confusion among credit unions that two separate appraisals are required; one meeting NCUA's Regulations and another meeting the federal loan program standards. Accordingly, the Board is adopting the proposed amendment in final.

Transactions That Meet the Qualifications for Sale to a United States Government Agency or Government Sponsored Agency

NCUA proposed to permit credit unions to originate, hold, buy or sell transactions that meet the qualifications for sale to any U.S. government agency and certain government sponsored agencies without obtaining a separate appraisal conforming to NCUA's Regulations. The Board believes that permitting credit unions to follow these standardized appraisal requirements, without the necessity of obtaining an appraisal or appraisal supplement will increase a credit union's ability to buy and sell these loans. Also, it may help a credit union with liquidity problems. Four commenters supported this amendment. One commenter suggested that the list of the government sponsored agencies that was in the proposed rule's preamble be included in the preamble of the final regulation so that credit unions would be able to identify those agencies more easily. The Board agrees. These government sponsored agencies are:

* Banks for Cooperatives.

* Federal Agricultural Mortgage Corporation (Farmer Mac).

* Federal Farm Credit Banks.

* Federal Home Loan Banks (FHLBs).

- * Federal Home Loan Mortgage
- Corporation (Freddie Mac).
- * Federal National Mortgage Association (Fannie Mae).
- * Student Loan Marketing
- Association (Sallie Mae).
- * Tennessee Valley Authority (TVA).

The Board believes the appraisal standards of the U.S. government agencies established to maintain a secondary market in various types of loans are appropriate for these exempt transactions. Furthermore, the Board believes that compliance with these standards will protect the safety and soundness of regulated financial institutions. Accordingly, the Board is adopting the proposed amendments in final.

2. Appraisals to Address Safety and Soundness Concerns

The Board proposed to clarify that NCUA may require Title XI appraisals to address safety and soundness concerns where real estate-related financial transactions present greater-than-normal risk to individual credit unions. For example, NCUA may require a troubled credit union to obtain an appraisal for transactions below the threshold level. Two commenters supported this amendment. One commenter objected stating that USPAP standards already provide sufficient safeguards. In general, the Board believes that the USPAP standards are sufficient but as the above example demonstrates there may be occasions where additional standards are necessary. Accordingly, the Board is adopting this amendment as proposed.

3. Minimum Appraisal Standards

The Board proposed to reduce the number of minimum appraisal standards applicable to Title XI appraisals for federally-related transactions from the thirteen standards found in §722.4(a) of NCUA's Regulations (12 CFR 722.4(a)) to five and eliminate the current prohibition on the use of the USPAP Departure Provision in connection with federallyrelated transactions. The Board proposed to require all appraisals for federally-related transactions to: (i) Conform to generally accepted appraisal standards as evidenced by the USPAP; (ii) be written and contain sufficient information and analysis to support the credit union's decision to engage in the transaction; (iii) analyze and report appropriate deductions and discounts for proposed construction or renovation, partially leased buildings, no-market lease terms and tract developments with unsold units (iv) be based upon the

definition of market value as set forth in the regulation; and (v) be performed by State licensed or certified appraisers.

The Board also proposed deleting Appendix A from the regulation since USPAP would be referenced in the regulation.

Nine commenters supported the modification and believe that eliminating the parallel USPAP standards will ease regulatory burden. Most of these commenters believed that this amendment will eliminate any confusion on what standards to follow. One commenter specifically stated that the elimination of Appendix A will make it clear to credit unions that any reference to USPAP is the current edition. Ten commenters did not believe this change will ease regulatory burden but they did not object to the change. One of these commenters stated that all the proposed changes are the responsibility of the appraiser and not the credit union. One commenter objected to the amendment because he does not believe the current standards impose any sort of regulatory burden. Two commenters believe the proposed amendments will affect the usefulness of an appraisal. The Board does not believe an appraisal will be less useful by eliminating these standards since an appraiser must still follow the parallel USPAP standards. By eliminating the regulatory standards that parallel USPAP standards the Board is simply reducing the confusion on what standards need to be followed in the preparation of appraisals for federally related transactions.

Departure Provision

The Board proposed to permit credit unions to use appraisals prepared in accordance with the USPAP Departure Provision for federally-related transactions. The Departure Provision permits limited exceptions to specific guidelines in the USPAP. The Board believes that credit unions should be allowed to determine, with the assistance of the appraiser, whether an appraisal to be prepared in accordance with the Departure Provision is appropriate for a particular transaction and consistent with principles of safe and sound lending. Thirteen commenters supported the ability of a credit union to use USPAP's Departure Provision. Most of these commenters do not believe this change would affect the reliability of an appraisal report. They believe this change would provide credit unions with added flexibility which will result in decreased appraisal costs. Five commenters believe the use of the Departure Provision may affect an appraisal's reliability and two of these