



June 30, 2023

Regulatory Review (2023)
Office of General Counsel
National Credit Union Administration
1775 Duke Street, Alexandria
Virginia 22314-3428

Submitted electronically to
OGCMAIL@NCUA.GOV

RE: Regulatory Review 2023

Dear Office of General Counsel,

The Dakota Credit Union Association (DakCU), which represents state and federally chartered credit unions in the states of North Dakota and South Dakota, appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) regarding its 2023 regulatory review which encompasses 12 CFR 711 to 12 CFR 747.

DakCU fully supports the NCUA's stated goal in this review to ensure that its regulations remain "clearly articulated and easily understood." We further applaud the NCUA's proactive process to continually review its regulations to identify any that may need updating. We also appreciate the NCUA in allowing for public feedback and input during this annual regulatory review process of one-third of the NCUA regulations impacting credit unions.

Part 722 – Appraisals

Currently, 12 CFR § 722.3 Appraisals and written estimates of market value requirements for real estate-related financial transactions, provides in subsection (d):

- (d) Real estate-related financial transactions requiring a written estimate of market value -
 - (1) Applicability. Any real estate-related financial transaction must be supported by a written estimate of market value, unless:
 - (i) An appraisal performed by a state-certified or state-licensed appraiser was obtained;
 - (ii) An appraisal is not required under paragraphs (a)(2) through (6) of this section; or
 - (iii) The transaction is fully insured or guaranteed by a United States government agency or United States government-sponsored agency.



(2) Requirements. All written estimates of market value required under this paragraph must be performed by an individual:

- (i) Independent of the loan production and collection processes (if independence cannot be achieved, the credit union must be able to demonstrate clearly that it has prudent safeguards to isolate its collateral valuation program from influence or interference from the loan production process and collection process);
- (ii) Having no direct, indirect, or prospective interest, financial or otherwise, in the property or the transaction; and
- (iii) Qualified and experienced to perform such estimates of value for the type and amount of credit being considered.

In 2019, NCUA finalized a rule that increased the threshold below which appraisals are not required for commercial real estate transactions from \$250,000 to \$1,000,000. In 2020, the final rule increased the threshold level below which appraisals are not required for residential real estate related transactions from \$250,000 to \$400,000. DakCU and our credit unions appreciate these regulatory changes as obtaining timely appraisals in the Dakotas has been an ongoing challenge, in addition to reducing the costs to consumers.

In the NCUA's 2018 proposed rule, which was finalized 2019 – the NCUA included a proposed provision that would have not required written estimates under a certain threshold. In relevant part the final rule discussed:

"In the proposed rule, the Board sought comment on whether the NCUA should establish a de minimis threshold for which written estimates of market value are not required. Seven credit unions and credit union trade organizations supported a de minimis threshold. Suggestions ranged between \$25,000 and \$100,000. One credit union thought the threshold should apply on a transaction-by-transaction basis, rather than be applicable to all transactions under the threshold. One appraisal trade organization did not support a de minimis threshold. The Board has determined not to adopt a de minimis threshold at this time as the Board believes further consideration is warranted. The Board is considering a requirement for credit unions to document a valuation for secured property even if a written estimate of market value is not required. The Board is also considering whether residential transactions should be treated the same as commercial transactions. Under the member business loan rule, transactions below \$50,000 are generally exempt from the definition of commercial loan, and therefore exempt from the member business loan limit. Accordingly, the Board believes there may be reason to exempt similarly sized loans under the appraisal rule. The Board also appreciates, however, that members who purchase residential properties with values below \$50,000 may benefit from valuations of their real-estate related transaction. The Board is also in the process of determining whether credit unions



originate a substantial volume of commercial transactions under \$50,000 and whether a targeted de minimus exception would provide meaningful burden relief." 84 FR 35533, July 24, 2019.

Now that we have had several years under these revised rules, we request the NCUA to reconsider the proposed de minimis threshold for which written estimates of market value are not required. DakCU recommends that 12 CFR § 722.3(d)(1) be revised to add language to the effect of "(iv) De Minimis Exception – the transaction value is \$100,000 or less and it is not a "higher-priced mortgage loan" under 12 CFR 1026.35."

Providing credit unions the opportunity to make the risk based decision to forgo an appraisal or written estimate of market value for transactions under \$100,000 would be a benefit to the consumer both in cost and reducing wait times. The credit union could still obtain the tax assessment, which is issued by a third party independent of the transaction, to support its decision to loan against the particular piece of real estate. DakCU urges the NCUA to make this flexibility available to both commercial and residential real estate transactions that are \$100,000 or less.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeffrey Olson".

Jeffrey Olson
CEO/President

A handwritten signature in black ink, appearing to read "Amy Kleinschmit".

Amy Kleinschmit
Chief Compliance Officer