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(1) The sale, lease, purchase, investment in or exchange of real estate, including interests in property, or the financing thereof; or

(2) The refinancing of real estate or interests in real estate; or

(3) The use of real estate or interests in property as security for a loan or investment, including mortgage-backed securities.

Residential real estate transaction means a real estate-related financial transaction that is secured by a single 1-to-4 family residential property.

Staff appraiser means a State-certified or a State-licensed appraiser that is an employee of the credit union.

State-certified appraiser means any individual who has satisfied the requirements for certification in a state or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation. No individual shall be a state-certified appraiser unless such individual has achieved a passing grade upon a suitable examination administered by a state or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, practices, or procedures of a state or territory are inconsistent with title XI of FIRREA. The National Credit Union Administration may, from time to time, impose additional qualification criteria for certified appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

State-licensed appraiser means any individual who has satisfied the requirements for licensing in a state or territory where the licensing procedures comply with title XI of FIRREA and where the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI. The NCUA may, from time to time, impose additional qualification criteria for licensed appraisers performing appraisals in connection with federally

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related transactions within its jurisdiction.

Tract development means a project of five units or more that is constructed or is to be constructed as a single development.

Transaction value means:

(1) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(2) For sales, leases, purchases, and investments in or exchanges of real estate, the market value of the real estate interest involved; and

(3) For the pooling of loans or interests in real estate for resale or purchase, the amount of the loan or market value of the real estate calculated with respect to each such loan or interest in real estate.

[84 FR 35536, July 24, 2019]

§ 722.3 Appraisals and written estimates of market value requirements for real estate-related financial transactions.

(a) *Real estate-related financial transactions not requiring an appraisal under this part.* Provided the transaction is not a “higher-priced mortgage loan” under 12 CFR 1026.35, which must meet separate appraisal requirements under section 129H of the Truth in Lending Act, 15 U.S.C. 1639h, an appraisal is not required for a real estate-related financial transaction in which:

(1) The transaction involves an existing extension of credit at the lending credit union, provided that:

(i) There is 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;

(2) A lien on real estate has been taken as collateral through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of a lien;

(3) A lien on real estate has been taken for purposes other than the real estate’s value;

(4) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(5) The transaction involves the purchase, sale, investment in, exchange of, or extension of credit secured by, a loan or interest in a loan, pooled loans, or interests in real estate, including mortgage-backed securities, and each loan or interest in a loan, pooled loan, or real estate interest met the requirements of this regulation, if applicable, at the time of origination; or

(6) The transaction either qualifies for sale to a United States government agency or United States government-sponsored agency, or involves a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate.

(b) *Real estate-related financial transactions requiring an appraisal by a state-certified appraiser.* An appraisal performed by a state-certified appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) of this section in which:

(1) The transaction value is \$1,000,000 or more; or

(2) The transaction is complex, involves a residential real estate transaction, \$250,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government-sponsored agency, and the transaction does not meet the criteria in paragraph (f) of this section.

(c) *Real estate-related financial transactions requiring an appraisal by either a state-certified or state-licensed appraiser.*

(1) An appraisal performed by a state-certified appraiser or a state-licensed appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) of this section in which the transaction is not complex, involves a residential real estate transaction, \$250,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government-sponsored agency, and the transaction does not meet the criteria in paragraph (f) of this section.

(2) If, during the course of an appraisal of a residential real estate transaction performed by a state-licensed appraiser, factors are identified that result in the transaction meeting the definition of complex, then the credit union may either:

(i) Ask the state-licensed appraiser to complete the appraisal and have a state-certified appraiser approve and cosign the appraisal; or

(ii) Engage a state-certified appraiser to complete the appraisal.

(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.

(e) *Appraisals to address safety and soundness concerns.* The NCUA reserves the right to require an appraisal under this subpart whenever the agency believes it is necessary to address safety and soundness concerns.

(f) *Exemption from appraisals of real estate located in rural areas.* (1) Notwithstanding any other provision of law, an

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appraisal in connection with a federally related transaction involving real estate or an interest in real estate is not required if:

(i) The real estate or interest in real estate is located in a rural area, as described in 12 CFR 1026.35(b)(2)(iv)(A);

(ii) The transaction value is less than \$400,000;

(iii) Any party involved in the transaction that meets the definition of mortgage originator must be subject to oversight by a Federal financial institutions regulatory agency; and

(iv) Not later than three days after the date on which the Closing Disclosure Form, made in accordance with 12 CFR parts 1024 and 1026, relating to the federally related transaction is given to the consumer, the credit union (or other party involved in the transaction that acts as the mortgage originator) or its agent, directly or indirectly:

(A) Has contacted not fewer than three state-certified appraisers or state-licensed appraisers, as applicable, on the credit union's (or other party involved in the transaction that acts as the mortgage originator) approved appraiser list in the market area in accordance with 12 CFR part 226; and

(B) Has documented that no state-certified appraiser or state-licensed appraiser, as applicable, was available within five business days beyond customary and reasonable fee and timeliness standards for comparable appraisal assignments, as documented by the credit union (or other party involved in the transaction that acts as the mortgage originator) or its agent.

(2) A credit union (or other party involved in the transaction that acts as the mortgage originator) that makes a loan without an appraisal under the terms of paragraph (f)(1) of this section shall not sell, assign, or otherwise transfer legal title to the loan unless:

(i) The loan is sold, assigned, or otherwise transferred to another party by reason of the credit union's (or mortgage originator's) bankruptcy or insolvency;

(ii) The loan is sold, assigned, or otherwise transferred to another party regulated by a Federal financial institutions regulatory agency, so long as the loan is retained in portfolio by the other party;

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(iii) The sale, assignment, or transfer is pursuant to a merger of the credit union (or mortgage originator) with another party or the acquisition of the credit union (or mortgage originator) by another party or of another party by the credit union (or mortgage originator); or

(iv) The sale, loan, or transfer is to a wholly owned subsidiary of the credit union (or mortgage originator), provided that, after the sale, assignment, or transfer, the loan is considered to be an asset of the credit union (or mortgage originator) under generally accepted accounting principles.

(3)(i) For purposes of this paragraph (f), the term *transaction value* means the amount of a loan or extension of credit, including a loan or extension of credit that is part of a pool of loans or extensions of credit; and

(ii) The term *mortgage originator* has the meaning given the term in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

(4) This paragraph (f) does not apply if:

(i) The NCUA requires an appraisal under paragraph (e) of this section; or

(ii) The loan is a high-cost mortgage, as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

[84 FR 35537, July 24, 2019]

§ 722.4 Minimum appraisal standards.

For federally related transactions, all appraisals shall, at a minimum:

(a) Conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Ave., NW., Washington, DC 20005;

(b) Be written and contain sufficient information and analysis to support the institution's decision to engage in the transaction;

(c) Analyze and report appropriate deductions and discounts for proposed construction or renovation, partially leased buildings, non-market lease terms, and tract developments with unsold units;

(d) Be based upon the definition of market value as set forth in § 722.2(f); and