CUNA
Credit Union National Association
cuna.org
601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

VIA E-MAIL – regcomments@ncua.gov

January 21, 2009

Ms. Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

RE: CUNA Comments on Proposed Interagency Appraisal and Evaluation Guidelines

Dear Ms. Rupp:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the proposed Interagency Appraisal and Evaluation Guidelines (Guidelines) that outline supervisory expectations for sound real estate appraisal and evaluation practices, which includes formal appraisals, as well as other evaluation methods that are permitted under certain circumstances. The Guidelines are intended to clarify and provide more details on appropriate risk management principles and internal controls for ensuring that real estate appraisals and other evaluations are reliable and support the real estate transactions. CUNA represents approximately 90 percent of our nation's 8,200 state and federal credit unions, which serve approximately 92 million members.

Summary of CUNA's Comments

- We believe the Guidelines should clarify the extent that the definition of "appraisal" refers only to full-scale interior inspections and to the extent this could also include exterior-only inspections, commonly referred to as "drive-by" appraisals.
- The Guidelines indicate that lower costs or speed of delivery should not influence the appraiser's scope of work. Although we agree that lower costs and speed of delivery should not be primary considerations, we believe these factors should be taken into account to the extent that the quality of the appraisal is not adversely impacted.

- The Guidelines indicate that the institution should discuss its needs and expectations with the appraiser. We do not believe this is either practical or realistic and does not reflect current business practices, at least for larger credit unions and other financial institutions.
- Under the Guidelines, an institution may employ techniques, such as automated tools or sampling methods, when performing pre-funding reviews of appraisals or evaluations that support lower risk single-family mortgages. We believe that automated tools and sampling methods should be used for all other low-risk transactions, and the financial institution should define what is "low-risk." To assist in these efforts, the Guidelines should also provide more guidance on the factors that may be considered.
- Appraisals are not needed for transactions in which the value is equal to or less than the threshold in the appraisal rules. We believe that the Guidelines should specifically mention the $250,000 threshold. Also, we question why the additional requirement of a written estimate of value only applies to credit unions under NCUA rules. We believe that to the extent this requirement remains the Guidelines, it should also apply to banks and thrifts and the Guidelines should also outline the documentation that would be needed and the methods that may be used to provide these estimates.
- We urge the regulators to consider whether lenders should have more flexibility in determining whether there must be an appraisal or valuation for every loan modification, particularly if an appraisal that is consistent with these Guidelines was obtained for the original loan.
- For automated valuation methods (AVMs), there is an additional requirement for credit unions that these be reviewed by a loan officer or other qualified individual. Again, to the extent this requirement remains the Guidelines, it should also apply to banks and thrifts.
- The Guidelines indicate that AVM values should be compared to data from sales transactions prior to being recorded in public records. We suggest that the final version of the Guidelines recognize that this would not be feasible in the situations in which the information is not publicly available.

Discussion

In general, credit unions have been very prudent in their real estate lending practices, including the policies and procedures that they follow when obtaining appraisals or other types of evaluations that are permitted under the appraisal rules. Although many credit unions have been affected by the current economic crisis, these prudent practices have helped credit unions avoid making many of the types of imprudent mortgage loans that have often been cited as one of the causes of this crisis. For this reason, we are confident that credit unions have been and are continuing to take the necessary safeguards to ensure the integrity of the appraisal process and that they are meeting the expectations outlined in the Guidelines.

Clarification of the Term “Appraisal”

Credit unions have raised a number of issues and suggested changes that we request be incorporated into the Guidelines before they are issued in final form. For example, the term “appraisal” is defined as:

> a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of market information.

The Guidelines should clarify the extent to which this definition refers only to full-scale interior inspections and whether this could also include exterior-only inspections, commonly referred to as “drive-by” appraisals. This is important as credit unions use drive-by appraisals, even in situations in which an appraisal is not required under current rules. We suggest that the Guidelines specifically outline the situations in which drive-by appraisals would be appropriate.

Development of the Appraisal / Scope of Work

The Guidelines require the appraisal to reflect an appropriate scope of work that includes the extent to which the property is identified and inspected, the type and extent of data researched, and the analysis that is used. We are concerned because the Guidelines also indicate that lower costs or speed of delivery should not influence the appraiser’s scope of work.

We believe it may at times be appropriate to consider lower costs and speed of delivery, provided that the quality of the appraisal is not adversely impacted. This will benefit both credit unions and their members to the extent these cost savings are passed on to the membership. To address this issue, the Guidelines should indicate that lower costs and speed of delivery may not be primary considerations but can be taken into account to the extent that the quality of the appraisal is not adversely impacted.

The Guidelines also indicate that the institution should discuss its needs and expectations with the appraiser and this should assist the appraiser in establishing the scope of work and form the basis of the engagement letter. We do not believe this is either practical or realistic and does not reflect current business practices, at least for larger credit unions and other financial institutions. The current practice is for the institution to identify the property and submit the request to an appraiser who provides the acceptable level of services.

We also note the there is an emphasis on ensuring that the appraiser is independent and unbiased. Including provisions in the Guidelines that suggest and encourage substantial discussions between the lender and the appraiser may give some the impression that they are working together to ensure the appraisal will support the loan, which would seem to contradict the notion of independence.

Review of Appraisals or Evaluations

Under the Guidelines, an institution may employ techniques, such as automated tools or sampling methods, when performing pre-funding reviews of appraisals or evaluations that support lower risk single-family mortgages. The National Credit Union Administration (NCUA) and the other federal financial institution regulators have requested comment as to whether this should be appropriate for other low-risk transactions.

We agree that automated tools and sampling methods should be used for all other low-risk transactions. However, it should be the financial institution that should define what is “low-risk.” Mortgage loan underwriting entails an analysis of many factors, which include the borrower’s income, assets, debt-to-income ratio, past credit performance, the marketability and value of the collateral, as well as other factors. Under these circumstances, a “bright-line” test to determine “low-risk” is simply impossible considering the myriad of factors that are considered in the underwriting process. For this reason, we believe the financial institution should be able to make this determination based on the appropriate factors. The Guidelines should supplement this effort by providing more information as to how this determination should be made, including the factors that examiners may take into account as they review the use of these automated tools.

Appendix A – Appraisal Exemptions

The Guidelines outline a number of exemptions to the requirement for obtaining appraisals. Below are our concerns and suggested revisions for two of these exemptions:

- Appraisal Threshold – Under this exemption, appraisals are not needed for transactions in which the value is equal to or less than the threshold in the appraisal rules, although an evaluation is required, consistent with safe and sound banking practices. In these situations, NCUA rules specifically require a written estimate of market value performed by a qualified and experienced person who has no interest in the property. Although the separate appraisal rules indicate that this threshold is $250,000, we believe it would be helpful to state this dollar threshold in Appendix A of the Guidelines. We also question why the additional requirement of a written estimate of value only applies to credit unions under NCUA rules. Although we agree that a written estimate is appropriate, we strongly urge consistency with other types of financial institutions and, therefore, the written estimate requirements should also apply to banks and thrifts. Only requiring this for credit unions gives the appearance that credit unions should be subject to more stringent requirements, based on their lending practices. In reality, nothing could be further from the truth, considering that it has been the imprudent lending practices of other types of financial institutions that have been the catalyst for the recent economic crisis. To the extent this requirement is incorporated in the final version of the Guidelines, we suggest these provisions outline the specific documentation that would be required. We also suggest that specific evaluation methods be listed under this exemption, whether this would be a cross-reference to AVMs or tax assessment valuations (TAV) outlined in Appendix B or other methods, such as drive-by appraisals if those would otherwise not meet the definition of an "appraisal."

- Loan Workouts or Modifications – Appendix A of the Guidelines outlines the extent to which appraisals or other evaluations are necessary when there is a loan workout or modification. We urge the regulators to consider whether lenders should have more flexibility in determining whether there must be an appraisal or valuation for every loan modification, particularly if an appraisal that is consistent with these Guidelines was obtained for the original loan. Credit unions and other financial institutions should be encouraged to work with borrowers to the extent possible to address mortgage loan problems before initiating the foreclosure process, an approach encouraged by a number of agencies of the federal government, including NCUA. For this reason, we believe institutions should have more leeway whether to obtain an appraisal or evaluation in these situations, and this flexibility should facilitate their efforts to help consumers avoid foreclosure. Of course, if a foreclosure becomes necessary, we do recognize the need to then obtain an appraisal for purposes of establishing the value in preparation for sale and to estimate the required loan loss reserve.

Appendix B – Evaluation Alternatives

Appendix B of the Guidelines notes that for credit unions, AVMs may be used to meet the requirement to provide an evaluation of value, as long as there is also a review by a loan officer or person with knowledge, training and experience in the real estate market in which the loan is being made. It is our understanding that this review process is not required for banks and thrifts.

Again, for the reasons noted above with regard to written estimates for transactions less than the $250,000 threshold, we question why there is a separate standard for credit unions, especially since generally they have historically proven to among the most prudent lenders. Credit unions are generally not opposed to the review requirement but do not understand why the same requirement should not apply to banks and thrifts.

Appendix B of the Guidelines also indicates that AVM values should be compared to data from sales transactions prior to being recorded in public records. It is our understanding that sales transaction information is not always readily available in certain parts of the country. For this reason, we suggest that the final version of the Guidelines recognize this possibility and clearly indicate that this comparison would not be feasible in these situations.

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Thank you for the opportunity to comment on the proposed Guidelines. If Board members or agency staff have questions about our comments, please contact Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 638-5777.

Sincerely,

Jeffrey Bloch
Senior Assistant General Counsel