



The National Voice of the State Credit Union System

June 5, 2020

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: NASCUS Comments on Interim Final Rule: Real Estate Appraisals (RIN 3133-AF17)

Dear Mr. Poliquin:

The National Association of State Credit Union Supervisors (NASCUS)¹ submits the following comments in response to the National Credit Union Administration's (NCUA's) request for comments on Interim Final Rule: Real Estate Appraisals (RIN 3133-AF17).² The Interim Final Rule (IFR) defers the requirements for a credit union to obtain an appraisal or written estimate of market value for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions.

The IFR became effective on April 21, 2020 and remains in effect through December 31, 2020.

NASCUS supports NCUA's enactment of the IFR providing federally insured credit unions greater flexibility in obtaining appraisals and written estimates of market value for certain transactions. We find this rule to be a reasoned, calculated, and calibrated response to burdens on both borrowers and credit unions arising from the unprecedented COVID-19 pandemic. Furthermore, NASCUS agrees this IFR meets the high threshold required for implementation before completion of notice and comment pursuant to the Administrative Procedure Act (APA).³

Providing the Temporary Option to Modestly Delay an Appraisal is an Appropriate and Measured Regulatory and Supervisory Response to the Impact of COVID-19

Appraisals and written estimates of market value are important tools to enhance safety and soundness of lenders as well as consumer protection for borrowers. We note that the IFR is not waiving the requirement for appraisals or written estimates of market value where applicable. Rather, the IFR provides credit unions an additional 120 days in which to obtain the appraisals or written valuation.⁴ Furthermore, in the supplemental material NCUA

¹ NASCUS is the professional association of the nation's 45 state credit union regulatory agencies that charter and supervise over 2,000 state credit unions. NASCUS membership includes state regulatory agencies, state chartered and federally chartered credit unions, and other important stakeholders in the state system. State chartered credit unions hold nearly half the \$1.5 trillion assets in the credit union system and are proud to represent nearly half of the 117 million credit union members.

² NCUA Interim Final Rule: Real Estate Appraisals, 85 Fed. Reg. 77, at 22014 (April 21, 2020).

³ 15 U.S.C. §553 (b)(B).

⁴ 85 Fed. Reg. 77, at 22016 (April 21, 2020).

stresses that credit unions are expected to use all available information to establish a valuation of the collateral and to adhere to appropriate underwriting standards in analyzing creditworthiness and repayment ability.⁵ In addition, nothing in the IFR prevents or discourages a credit union from obtaining appraisals or written estimates of market value prior to loan closing. We also note that NCUA narrowly tailored this rulemaking, excluding from the 120-day forbearance transactions related to acquisition, development, and construction of real estate.⁶

Finally, NCUA's IFR is consistent with similar appraisal forbearance issued by the federal Banking Regulators.⁷ Credit unions are equally qualified to manage the flexibility in obtaining appraisals and written estimates of market value as their bank peers.

The Public Interest is Served by Issuing the Appraisal Delay as an Interim Final Rule

The APA provides for an exception to notice and comment if such procedural adherence would be impractical, unnecessary, or contrary to the public interest.⁸ NASCUS strongly supports the principles of the APA and envision that we would rarely concur that notice and comment are unwarranted. However, in this case, we do believe delaying this relief is contrary to the public interest. The economic dislocation resulting from the COVID-19 has already been severe. Record numbers of Americans have filed unemployment claims and Congress authorized the Paycheck Protection Program to provide liquidity and credit to income strapped businesses. Businesses and borrowers seeking liquidity and credit could be harmed by procedural delays in closing transactions covered by this rulemaking. At the same time, obtaining an appraisal on property in the near term can be complicated by social distancing recommendations designed to slow the pandemic. The immediate effective date allowed transactions to move forward pending the public comment period. The public interest has been better served by the procedure of this rulemaking.

NASCUS appreciates the opportunity to submit comments to NCUA on the Interim Final Rule providing regulatory relief from appraisals rules by giving federally insured credit unions greater flexibility in obtaining required appraisals and written estimates of market value. We would be happy to answer any questions or discuss our comments at NCUA's convenience.

Sincerely,

- signature redacted for electronic publication -

Brian Knight
Executive Vice President & General Counsel

⁵ Ibid.

⁶ See Interim Final § 722.3(g)(2), 85 Fed. Reg. 77, at 22017 (April 21, 2020).

⁷ Real Estate Appraisals, 85 Fed. Reg. 75, at 21312 (April 17, 2020).

⁸ 15 U.S.C. §553 (b)(B).