

shall require an appraisal prepared by a state-certified appraiser.

(3) (Complex residential transactions of \$250,000 or more) All complex 1- to 4-family residential property appraisals rendered in connection with federally related transactions shall require a state-certified appraiser if the transaction value is \$250,000 or more. A regulated institution may presume that appraisals of 1- to 4-family residential properties are not complex unless the institution has readily available information that a given appraisal will be complex. The regulated institution shall be responsible for making the final determination of whether the appraisal is complex. If, during the course of the appraisal, a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, then either:

(i) The regulated institution may ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and cosign the appraisal; or

(ii) The institution may engage a certified appraiser to complete the appraisal.

(c) *Transactions requiring either a State-certified or -licensed appraiser.* All appraisals for federally related transactions not requiring the services of a state-certified appraiser shall be prepared by either a state-certified appraiser or a state-licensed appraiser.

(d) *Valuation requirement.* Secured transactions exempted from appraisal requirements pursuant to paragraphs (a)(1) of this section and not otherwise exempted from this regulation or fully insured shall be supported by a written estimate of market value, as defined in this regulation, performed by an individual having no direct or indirect interest in the property, and 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.* NCUA reserves the right to require an appraisal under this subpart whenever the agency believes it is necessary to address safety and soundness concerns.

[55 FR 30207, July 25, 1990, as amended at 60 FR 51894, Oct. 4, 1995]

#### § 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

(e) Be performed by State licensed or certified appraisers in accordance with requirements set forth in this subpart.

[60 FR 51894, Oct. 4, 1995]

#### § 722.5 Appraiser independence.

(a) *Staff appraiser.* If an appraisal is prepared by a staff appraiser, that appraiser must be independent of the lending, investment, and collection functions and not involved, except as an appraiser, in the federally related transaction, and have no direct or indirect interest, financial or otherwise, in the property. If the only qualified persons available to perform an appraisal are involved in the lending, investment, or collection functions of the credit union, the credit union shall take appropriate steps to ensure that the appraisers exercise independent judgment. Such steps include, but are not limited to, prohibiting an individual from performing an appraisal in connection with federally related transactions in which the appraiser is otherwise involved.

(b) *Fee Appraisers.* (1) If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the credit union or its agent and have no direct or indirect interest, financial or otherwise, in the property or the transaction.

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(2) A credit union also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution; if:

(i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or transaction; and

(ii) The credit union determines that the appraisal conforms to the requirement of this regulation and is otherwise acceptable.

[55 FR 30207, July 25, 1990, as amended at 60 FR 51895, Oct. 4, 1995]

### § 722.6 Professional association membership; competency.

(a) *Membership in appraisal organization.* A state-certified appraiser or a state-licensed appraiser may not be excluded from consideration for an assignment for a federally related transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(b) *Competency.* All staff and fee appraisers performing appraisals in connection with federally related transactions must be state-certified or -licensed as appropriate. However, a state-certified or -licensed appraiser may not be considered competent solely by virtue of being certified or licensed. Any determination of competency shall be based upon the individual's experience and educational background as they relate to the particular appraisal assignment for which he or she is being considered.

### § 722.7 Enforcement.

Credit unions and institution-affiliated parties, including staff appraisers and fee appraisers, may be subject to removal and/or prohibition orders, cease-and-desist orders, and the imposition of civil money penalties pursuant to section 1786 of the Federal Credit Union Act, or any other applicable law.

## PART 724—TRUSTEES AND CUSTODIANS OF PENSION PLANS

Sec.

724.1 Federal credit unions acting as trustees and custodians of pension plans.

724.2 Self-directed retirement plans.

724.3 Appointment of successor trustee or custodian.

AUTHORITY: 12 U.S.C. 1766 and 1787.

SOURCE: 55 FR 30211, July 25, 1990, unless otherwise noted.

### § 724.1 Federal credit unions acting as trustees and custodians of pension plans.

A federal credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension plan which qualifies or qualified for specific tax treatment under section 401(d) or 408 of the Internal Revenue Code, for its members or groups of its members, provided the funds of such plans are invested in share accounts or share certificate accounts of the federal credit union. All funds held in a trustee or custodial capacity must be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over such trust or custodial accounts. The federal credit union shall maintain individual records for each participant which show in detail all transactions relating to the funds of each participant or beneficiary.

### § 724.2 Self-directed retirement plans.

A Federal credit union may act as trustee or custodian of individual retirement plans of its members established pursuant to section 401(d) or 408 of the Internal Revenue Code, and may facilitate transfers of plan funds to assets other than share and share certificates of the credit union, provided the conditions of § 724.1 and the following additional conditions are met:

(a) All contributions of funds are initially made to a share or share certificate account in the Federal credit union;

(b) Any subsequent transfer of funds to other assets is solely at the direction of the member and the Federal credit union exercises no investment discretion and provides no investment advice with respect to plan assets (i.e., the credit union performs only custodial duties); and