

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; 63 FR 51799, Sept. 29, 1998]

§ 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.

(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

§ 722.6

12 CFR Ch. VII (1-1-99 Edition)

(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 723—MEMBER BUSINESS LOANS

Sec.

- 723.1 What is a member business loan?
723.2 What are the prohibited activities?
723.3 What are the requirements for construction and development lending?
723.4 What are the other applicable regulations?
723.5 How do you implement a member business loan program?
723.6 What must your member business loan policy address?
723.7 What are the collateral and security requirements?

- 723.8 How much may one member, or a group of associated members, borrow?
723.9 How do you calculate the aggregate 15% limit?
723.10 What loan limit waivers are available?
723.11 How do you obtain a waiver?
723.12 What will NCUA do with my waiver request?
723.13 What options are available if the NCUA Regional Director denies our waiver request, or a portion of it?
723.14 How do I reserve for potential losses?
723.15 How much must I reserve for potential losses?
723.16 What is the aggregate member business loan limit for a credit union?
723.17 Are there any exceptions to the aggregate loan limit?
723.18 How do I obtain an exception?
723.19 What are the recordkeeping requirements?
723.20 How can a state supervisory authority develop and enforce a member business loan regulation?
723.21 Definitions.

AUTHORITY: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

SOURCE: 63 FR 51799, Sept. 29, 1998, unless otherwise noted.

§ 723.1 What is a member business loan?

(a) General rule. A member business loan includes any loan, line of credit, or letter of credit where the borrower uses the proceeds for the following purposes:

- (1) Commercial;
(2) Corporate;
(3) Other business investment property or venture; or
(4) Agricultural.

(b) Exceptions to the general rule. The following is not a member business loan:

- (1) A loan fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence;
(2) A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;
(3) Loan(s) to a member or an associated member which, when added together, are equal to or less than \$50,000;
(4) A loan where a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or