

deciding how numerical risk estimates are considered with respect to these goals." The NESHAPS standard for emissions of radioactive material from NRC licensed facilities is 10 mrem/yr for the air effluent release pathway alone. While the results of the 1993 reports to EPA have not been provided to NRC, a survey of NRC licensed facility air emissions performed by EPA in 1992 revealed that no NRC licensed facility surveyed exceeded that value. Almost all of the facilities surveyed in 1992 had air effluents which resulted in doses an order of magnitude lower for the maximally exposed individuals.

Taking these considerations into account, with respect to reducing the radiation dose limit to members of the public from 100 mrem/yr to 1 mrem/yr, the petition fails to recognize the net effect of the NRC's system of dose control and the role played by the dose limit and ALARA programs.

When these are taken into account, NRC's judgment is that the public is adequately protected, the health risks from NRC licensed activities are low, and no change in basic radiation protection standards, as petitioner suggests, is warranted.

Dated at Rockville, Maryland, this 2nd day of March, 1995.

For the Nuclear Regulatory Commission.

**James M. Taylor,**

*Executive Director for Operations.*

[FR Doc. 95-6069 Filed 3-10-95; 8:45 am]

BILLING CODE 7590-01-P

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 722

#### Appraisals

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed amendments.

**SUMMARY:** The NCUA Board is proposing amendments to its regulation regarding the appraisal of real estate, adopted pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The proposed amendments simplify compliance with regulatory requirements for credit unions by changing provisions of the appraisal regulation that govern: the publication of the Uniform Standards of Professional Appraisal Practice; minimum appraisal standards; appraisals to address safety and soundness concerns; unavailable information; additional appraisal standards developed by credit unions;

and appraiser independence. The proposed amendments should reduce costs without affecting the reliability of appraisals used in connection with federally related transactions.

**DATES:** Comments must be postmarked or received by May 12, 1995.

**ADDRESSES:** Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314 or via NCUA's electronic bulletin board to Becky Baker at 703-518-6480.

**FOR FURTHER INFORMATION CONTACT:** Kent Buckingham, Deputy Director, (703) 518-6360, Herbert Yolles, Director, Department of Risk Management, Office of Examination and Insurance, (703) 518-6360 or Michael McKenna, Staff Attorney, Office of General Counsel, (703) 518-6540.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 3331 et seq., directed NCUA and the other financial institution regulatory agencies to publish appraisal rules for federally related real estate transactions within the jurisdiction of each agency. Section 1121(4) of FIRREA, 12 U.S.C. 3350(4), defines a federally related transaction as a real estate-related financial transaction that, among other things, requires the services of an appraiser. A real estate-related financial transaction is defined as any transaction that involves (i) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities. See 12 U.S.C. 3350(5).

In July of 1990, the Board published regulations to meet the requirements of Title XI of FIRREA. See 55 FR 30199, July 25, 1990. The Board recognized that not all real estate-related financial transactions would require an appraisal. Accordingly, in the original appraisal regulation, NCUA did not require a state-certified or -licensed appraiser for real estate-related transactions having a transaction value less than or equal to \$50,000. In July of 1993, the Board raised the de minimus amount for an appraisal performed by a state-certified or -licensed appraiser to \$100,000 (See 58 F.R. 40040, July 27, 1993). The dollar threshold was raised because NCUA had not found any evidence indicating that there had been a significant increase in

the defaults on real estate-related loans of less than \$50,000 and that the increase would not represent a threat to the safety and soundness of credit unions but rather would reduce unnecessary costs and paperwork requirements.

Recently, the other federal financial institution regulatory agencies<sup>1</sup> have increased the threshold to \$250,000. See 59 FR 29482, June 7, 1994. The Board has considered whether the de minimus level should be increased for federally-insured credit unions. At this time, the Board does not perceive a need to increase the threshold. Many credit unions do not have the on-staff expertise to prepare appraisals. In addition, although credit unions are well capitalized, they are generally much smaller than other financial institutions. As a result, the relative size of an average real estate loan to capital is generally much higher for a credit union, which translates to much greater relative risk. A major portion of the losses to the National Credit Union Share Insurance Fund in the past ten years has been associated with real estate lending.

For credit unions that do engage in real estate lending, the greatest single risk protection they can obtain is a licensed or certified appraisal to support the loan-to-value ratio. The current thresholds of \$100,000 for residential real estate and \$50,000 for commercial property are sufficiently high to preclude most home equity or second trust lending from the appraisal requirement, but are low enough to ensure that professional appraisals are obtained for higher-dollar value real estate lending. Therefore, the Board is not proposing to increase either of these dollar thresholds. However, the Board believes that the appraisal regulation can be revised to provide clarity and ease the regulatory burden on credit unions for some categories of transactions.

##### B. Proposed Amendments

While in most cases an appraisal is an essential part of a sound underwriting decision, the Board believes that NCUA should not require Title XI appraisals where they impose costs without significantly promoting the safety and soundness of credit unions or furthering the purposes of Title XI of FIRREA. Accordingly, the Board is proposing to amend its appraisal regulation to clarify

<sup>1</sup> The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision.

and expand the circumstances in which a Title XI appraisal is not required.

It is also NCUA's experience that the current minimum standards applicable to federally related transactions and requirements concerning the independence of appraisers can be simplified without significantly affecting the reliability of Title XI appraisals. Therefore, the Board is proposing to amend the appraisal regulation to eliminate standards that parallel standards in the Uniform Standards of Professional Appraisal Practice ("USPAP") promulgated by the Appraisal Standards Board of the Appraisal Foundation. In addition, the Board is proposing to amend the regulation concerning appraiser independence to permit credit unions to use appraisals prepared for other financial service institutions. The Board also proposes to simplify compliance with regulatory requirements for both credit unions and appraisers by changing provisions of the appraisal regulation that govern: (i) publication of USPAP; (ii) unavailable information; (iii) appraisals to address safety and soundness concerns and (iv) additional appraisal standards developed by credit unions. The proposed changes should reduce costs without affecting the reliability of appraisals used in connection with federally related transactions.

### 1. Exemptions

#### The "Abundance of Caution" Provision

The Board proposes to amend the regulation to clarify and expand the scope of the exemption for real estate liens taken in an "abundance of caution." NCUA's appraisal regulation currently provides that an appraisal is not required when a lien on real estate has been taken as collateral solely 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. See 12 CFR 722.3(a)(2).

NCUA's experience with implementing the appraisal regulation indicates that the existing abundance of caution exemption has been interpreted too narrowly. Therefore, to emphasize the broader scope of the abundance of caution exemption, the Board proposes to delete the word "solely" from the current exemption. However, this amendment would still not allow a credit union to use this exemption when there is a change to the terms of the loan because the credit union also received a

#### Liens for Purposes Other Than the Real Estate's Value

As defined in NCUA's Regulations, an appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of real estate. See 12 CFR 722.2(a). When the market value of the real estate as an individual asset is not part of the credit union's decision to take a lien against real estate, no purpose is served by requiring the institution to obtain an appraisal. The Board is proposing a new exemption for transactions in which a credit union takes a lien on real estate for a purpose other than the value of the real estate. On occasion a credit union takes a real estate lien to protect the legal rights to other collateral and not because of the value of the real estate as an individual asset. For instance, where the collateral for a loan is a small business, a credit union may take a lien against the land and improvements in order to be able to sell the entire business as a going concern if the borrower defaults. Similarly, in lending associated with agriculture, credit unions may take a lien against the real estate upon which the growing crops sit to ensure their access to the agricultural product.

#### Requirements for Renewals, Refinancing and Other Subsequent Transactions

The Board is proposing to clarify the exemption for renewals, refinancings, and other transactions resulting from an existing extension of credit to simplify the conditions under which the exemption applies. NCUA's appraisal regulation currently provides that an appraisal is not required for a subsequent transaction that results from a maturing extension of credit if: (i) The borrower has performed satisfactorily according to the original terms; (ii) no new monies are advanced other than as previously agreed; (iii) the credit standing of the borrower has not deteriorated; and (iv) there has been no obvious and material change in the market conditions or physical aspects of the property which would threaten the credit union's collateral protection. See 12 CFR 722.3(a)(4). It has been NCUA's experience that the current exemption may not provide sufficient flexibility to credit unions and borrowers when a transaction is refinanced before its maturity. This is especially true when the member is seeking a more favorable interest rate. The proposed amendment would exempt a subsequent transaction provided no new monies are advanced other than funds necessary to cover reasonable closing costs and there has

been no obvious and material change in the market conditions or physical aspects of the property which would threaten the credit union's collateral protection. This exemption would not be applicable if a member refinances a mortgage with a new lender.

#### Transactions Involving Real Estate Notes

The Board is proposing to amend the exemption regarding the purchase of real estate-secured loans, loan participations, pooled loans, interests in real property, and mortgage-backed securities. The proposed amendment would allow credit unions to purchase, sell, invest in, exchange, or extend credit secured by real estate notes or interests in real estate without obtaining a new Title XI appraisal if each note or real estate interest is supported by an appraisal that meets the regulatory appraisal requirements for the institution at the time the real estate-secured note was originated. (The transaction would, of course, have to meet other statutory and regulatory requirements applicable to federally-insured credit unions.) The current exemption simply refers to the purchase of these interests. In addition, the Board is proposing to change the text of this exemption to more clearly state the appraisal requirements that the underlying notes must meet.

The Board believes that the proposed amendment would serve federal public policy interests by helping to ensure that the appraisal regulation does not unnecessarily inhibit secondary mortgage market transactions that involve real estate-secured loans and real estate interests. The proposed amendment would make clear that a credit union need not obtain a new Title XI appraisal for loans originated before the effective date of NCUA's regulation in order to buy or sell them in the secondary mortgage market.

#### Transactions Insured or Guaranteed by a United States Government Agency or United States Government Sponsored Agency

NCUA's appraisal regulation currently provides that loans insured or guaranteed by an agency of the United States government are exempt from NCUA's appraisal requirements. See 12 CFR 722.3(a)(6). The Board is proposing to amend this provision in the regulation by deleting the requirement that the transaction be supported by an appraisal that conforms to the requirements of the insuring or guaranteeing agency. In order to receive the insurance or guarantee, the transaction must meet all underwriting

requirements of the insurer or guarantor, including real estate appraisal or evaluation requirements. The Board believes that the standards of these loan programs are sufficient to protect the safety and soundness of credit unions.

Transactions that Meet the Qualifications for Sale to a United States Government Agency or Government Sponsored Agency

NCUA proposes to not require a Title XI appraisal for any transaction that meets the qualifications for sale to any United States government agency or government sponsored agency. The Board believes that the appraisal standards of U.S. government agencies or government sponsored agencies established to maintain a secondary market in loans are sufficient to protect federal financial and public policy interest in the loans those government or government sponsored agencies purchase. The Board also believes that compliance with these standards will protect the safety and soundness of credit unions. By referring to any U.S. government agency or U.S. government sponsored agency, the proposed amendment would include not only loans sold to federal agencies, but also any transaction that meets the qualifications for sale to agencies established or chartered by the federal government to serve public purposes specified by the U.S. Congress. These government sponsored agencies are:

- \* Banks for Cooperatives.
- \* Federal Agricultural Mortgage Corporation (Farmer Mac).
- \* Federal Farm Credit Banks.
- \* Federal Home Loan Banks (FHLBs).
- \* Federal Home Loan Mortgage Corporation (Freddie Mac).
- \* Federal National Mortgage Association (Fannie Mae).
- \* Student Loan Marketing Association (Sallie Mae).
- \* Tennessee Valley Authority (TVA).

If a federally insured credit union is otherwise authorized to originate, hold, buy or sell transactions that meet the qualifications for sale to any U.S. government agency and the above listed government sponsored agencies, this proposal would allow them to do so without obtaining a separate appraisal conforming to NCUA's Regulations. The Board believes that permitting credit unions to follow these standardized appraisal requirements, without the necessity of obtaining an appraisal or appraisal supplement, will increase a credit union's ability to buy and sell these loans and also their liquidity if necessary.

## 2. Appraisals to Address Safety and Soundness Concerns

The Board is proposing to amend its regulations to clarify that the agency may require Title XI appraisals to address safety and soundness concerns. Under this provision, NCUA could require appraisals where real estate-related financial transactions present greater-than-normal risk to individual credit unions. For example, NCUA may require a troubled credit union to obtain an appraisal for transactions below the threshold level. This amendment would simply and explicitly clarify NCUA's current authority.

## 3. Minimum Appraisal Standards

The Board is proposing to reduce the number of minimum appraisal standards applicable to Title XI appraisals for federally-related transactions from the thirteen appraisal standards found in § 722.4(a) of NCUA's Regulations (12 CFR 722.4(a)) to five and eliminate the current prohibition on the use of the USPAP Departure Provision in connection with federally-related transactions.

Title XI of FIRREA states that each federal financial institution regulatory agency shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally-related transactions under the jurisdiction of each such agency. These rules require, at a minimum that: (i) Real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the Appraisal Standards Board of the Appraisal Foundation; and (ii) that such appraisals shall be written appraisals. Under Title XI, each agency may require compliance with additional standards if it makes a determination in writing that such additional standards are necessary in order to properly carry out its statutory responsibilities. See 12 U.S.C 3339.

At the time NCUA began drafting its appraisal regulation,<sup>2</sup> the Appraisal Standards Board was in the process of amending its appraisal standards. Because of uncertainty about the content of the standards and interpretations that would be promulgated by the Appraisal Standards Board, the Board included within its appraisal regulation thirteen minimum standards that paralleled existing or

proposed USPAP standards, including compliance with USPAP. NCUA also prohibited the use of the USPAP Departure Provision in connection with federally-related transactions. The Departure Provision permits an appraiser to prepare an appraisal without complying with certain recommended provisions of the USPAP if the appraisal report is not rendered misleading.

## Minimum Appraisal Standards and USPAP

The Board has gained considerable experience with the Appraisal Standards Board and its appraisal standards and believe that it is no longer necessary to include all the additional standards in its appraisal regulation. The Board believes that the Departure Provision of the USPAP may appropriately be used in connection with federally-related transactions. Therefore, the Board is proposing to simply require all appraisals for federally related transactions to: (i) Conform to generally accepted appraisal standards as evidenced by the USPAP; (ii) be written and contain sufficient information and analysis to support the institution's decision to engage in the transaction; (iii) 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; (iv) be based upon the definition of market value as set forth in the regulation; and (v) be performed by State licensed or certified appraisers.

The Board believes these five standards will simplify compliance with the appraisal regulation without affecting the usefulness of the Title XI appraisals prepared for federally related transactions. The proposed amendments would allow credit unions to make use of the USPAP's Departure Provision and eliminate several regulatory standards that parallel existing USPAP standards. Under these proposed standards, the USPAP is referenced but would no longer be part of NCUA's Regulations. This approach would no longer require NCUA to republish changes to the USPAP adopted by the Appraisal Standards Board, and thus references to USPAP in the regulation could be assumed to always refer to the most current edition. The Board believes this approach minimizes potential conflicts between an institution's duty to follow NCUA's appraisal requirements and an appraiser's professional obligation to follow the latest USPAP version. If the Board adopts this approach in the final rule, the USPAP provisions applicable

<sup>2</sup> NCUA coordinated with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision when it drafted its original appraisal regulation. All the federal financial institution regulatory agencies adopted substantially similar appraisal regulations in 1990.

to federally-related transactions will no longer be published as Appendix A to NCUA's appraisal regulation. Therefore, the Board is proposing to delete Appendix A from its appraisal regulation.

The Board would like to make clear that if this amendment is adopted in final, the principles of safe and sound lending may require credit unions to comply with stricter standards than the USPAP. Although the credit union has the primary responsibility for obtaining a Title XI appraisal that meets its needs, NCUA may by regulation or guidance identify USPAP standards that are inappropriate for federally related transactions. For example, the USPAP allows an appraiser to appraise property even though the appraiser may have a direct or indirect interest in the property, if the interest is disclosed in the appraisal report. However, the Board believes that federal financial and public policy interests are better served by requiring that an appraiser for a federally related transaction not have any direct or indirect interest, financial or otherwise, in the transaction or the property. This requirement is discussed further in the section addressing appraiser independence.

#### Departure Provision

The proposed minimum standards would also permit credit unions to use appraisals prepared in accordance with the USPAP Departure Provision for federally related transactions. The Departure Provision permits limited exceptions to specific guidelines in the USPAP. Appraisers preparing appraisals using the Departure Provision still must comply with all binding requirements of the USPAP and must be sure that the resulting appraisal is not misleading. The Board believes that if this amendment is adopted in final that credit unions should be allowed to determine, with the assistance of the appraiser, whether an appraisal to be prepared in accordance with the Departure Provision is appropriate for a particular transaction and consistent with principles of safe and sound lending. The proposed amendment would make clear that the written appraisal must contain sufficient information and analysis to support the credit union's decision to engage in the transaction. This would put credit unions on notice of their responsibility to have appraisals that are appropriate for the particular federally related transaction.

#### Deductions and Discounts

The Board is proposing to retain the current standard in the appraisal

regulation regarding deductions and discounts. See 12 CFR 722.4(a)(8). The USPAP provision on this subject requires the appraiser to include a discussion of deductions and discounts only when it is necessary to prevent an appraisal from being misleading. The Board believes it is appropriate to emphasize the need to include an appropriate discussion of deductions and discounts applicable to the estimate of value in Title XI appraisals for federally related transactions. For example, in order to properly underwrite a loan, a credit union may need to know a prospective value of a property, in addition to the market value as the date of the appraisal. A prospective value of a property is based upon events yet to occur, such as completion of construction or renovation, reaching a stabilized occupancy level, or some other event to be determined. Thus, more than one value may be reported in an appraisal as long as all values are clearly described and reflect the projected dates when future events could occur.

The standard on deductions and discounts is intended to make clear that appraisers must analyze, apply and report appropriate discounts and deductions when providing values based on future events. In financing the purchase of an existing home, there typically would be no need to apply any discounts or deductions to arrive at the market value of the property since the credit union's financing of the project does not depend on events such as further development of the property or the sale of units in a tract development.

#### Remaining Standards

The Board is also proposing to retain the current standard in the appraisal regulation on market value that requires the appraisal to be based on the definition of market value in NCUA's Regulations. See 12 CFR 722.4(a)(2). Finally, the Board is proposing a new standard that makes clear that all appraisals for federally related transactions must be prepared by licensed or certified appraisers. This requirement is mandated by Title XI of FIRREA and is repeated in other parts of the appraisal regulation.

#### 4. Elimination of the Provision on Unavailable Information

The Board is proposing to delete the current provision that requires appraisers to disclose and explain when information necessary to the completion of an appraisal is unavailable. See 12 CFR 722.4(b). The USPAP currently requires appraisers to disclose and explain the absence of information

necessary to completion of an appraisal that is not misleading. See USPAP Standard Rule 2-2(k). Moreover, when information that may materially affect the estimate of the value is unavailable, the Board believes that generally accepted appraisal standards require appraisers to explain the absence of that information and its effect on the reliability of the appraisal. Therefore, the elimination of this provision would not result in a substantive change in the requirements applicable to appraisals for federally related transactions since the Board is proposing to require appraisals to conform to the USPAP.

#### 5. Elimination of the Provision on Additional Appraisal Standards

The Board is proposing to delete the current provision that merely confirms the authority of credit unions to require appraisers to comply with additional standards. See 12 CFR 722.4(c). The regulation's minimum appraisal standards for federally related transactions do not prevent a credit union from requiring an appraiser to follow additional standards or provide additional information to satisfy the credit union's business needs and thus it is unnecessary to regulate this in the appraisal regulation.

#### 6. Appraiser Independence

The Board is proposing to amend and clarify its appraisal regulation to permit the use of appraisals prepared for financial service institutions other than institutions subject to Title XI of FIRREA. NCUA's current appraisal regulation provides that fee appraisers must be engaged by the credit union or its agent. An exception to this requirement is permitted if the appraiser is directly engaged by another institution that is subject to Title XI of FIRREA. See 12 CFR 722.5(b).

The current provision was adopted to help ensure that appraisers would not be subject to conflicts of interest as a result of having been engaged by borrowers. However, the Board believes that the current provision is too restrictive. It requires a credit union to obtain a new appraisal if the borrower originally sought the loan from an institution that is not subject to Title XI of FIRREA and is not an agent of the credit union. There also has been uncertainty about the meaning of agent in these cases.

The Board proposes to permit a credit union to use an appraisal that was prepared for any financial services institution, including mortgage bankers. The appraiser would not be allowed to have a direct or indirect interest, financial or otherwise, in the property

or the transaction, and must have been directly engaged by the non-regulated institution. Further, the credit union would be required to ensure that the appraisal conforms to the requirements of the regulation and is otherwise acceptable. The prohibition on the credit union using an appraisal prepared for the borrower would remain in effect.

#### Age of Appraisal

Some have suggested that NCUA's appraisal regulation contain a maximum allowable age of an appraisal for use by a credit union. They believe that there should be a maximum age (time from date of the appraisal to date of the application of the loan) for an appraisal, but that the age should not be so short as to unnecessarily require another appraisal be prepared in the uncommon instance where a mortgage is refinanced within a reasonably short time or a credit union is using an appraisal prepared for another financial service institution. Hence, the Board realizes that any specific time period will not be appropriate in all situations. The Board has specifically decided to permit each institution to determine the allowable period for an appraisal, but recommends that any appraisal over six months old not be used.

#### Regulatory Procedures

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The proposed amendments reduce regulatory burden and are less restrictive than current requirements. Overall, the Board expects the changes to benefit members and federally-insured credit unions regardless of size by reducing costs without substantially increasing the risk of loss. In addition, most small credit unions do not offer real estate loans. Accordingly, the Board determines and certifies that the proposed rule is not expected to have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

##### *Executive Order 12612*

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed rule will apply to all federally-insured credit unions. The proposed rule will reduce regulatory requirements for all federally-insured credit unions. The

Board has determined that the proposed amendments would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

##### *Paperwork Reduction Act*

The proposed rule, if adopted, will decrease paperwork requirements for a credit union. The paperwork requirements will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. Written comments on the paperwork requirements should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington, DC 20530. Attn: Milo Sunderhauf. NCUA will publish a notice in the **Federal Register** once OMB action is taken on the submitted requirement.

##### **List of Subjects in 12 CFR Part 722**

Appraisals, Credit unions, State-certified and State-licensed appraisers

By the National Credit Union Administration Board on March 1, 1995.

**Becky Baker,**

*Secretary to the Board.*

Accordingly, NCUA proposes to amend 12 CFR part 722 as follows:

#### **PART 722—APPRAISALS**

1. The authority citation for Part 722 continues to read as follows:

**Authority:** 12 U.S.C. 1766, 1789 and Pub. L. No. 101-73.

2. Section 722.3 is amended by revising the section heading, revising paragraphs (a) and (d) and adding a new paragraph (e) to read as follows:

##### **§722.3 Appraisals required; transactions requiring a State certified or licensed appraiser.**

(a) *Appraisals required.* An appraisal performed by a State certified or licensed appraiser is required for all real estate-related financial transactions except those in which:

(1) The transaction value is \$100,000 or less except if it is a business loan and then the transaction value must be \$50,000 or less;

(2) A lien on real property 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 an existing extension of credit at the credit union, provided that:

(i) There is no advancement of new monies, other than funds necessary to cover reasonable closing costs and

(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;

(6) 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 property, including mortgage-backed securities, and each loan or interest in a loan, pooled loan, or real property interest met the requirements of this paragraph, if applicable, at the time of origination;

(7) The transaction is wholly or partially insured or guaranteed by a United States government agency or United States government sponsored agency; or

(8) The transaction either:

(i) Qualifies for sale to a United States government agency or United States government sponsored agency; or

(ii) 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.

\* \* \* \* \*

(d) *Valuation Requirement.* Secured transactions exempted from appraisal requirements pursuant to paragraphs (a)(1) and (a)(5) of this section and not otherwise exempted shall be supported by a written estimate of market value, as defined in this part, 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 part whenever the agency believes it is necessary to address safety and soundness concerns.

3. Section 722.4 is revised to read as follows:

**§ 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 part.

4. Section 722.5 is amended by revising paragraph (b) to read as follows:

**§ 722.5 Appraiser Independence.**

\* \* \* \* \*

(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

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

**Appendix A [Removed]**

5. Appendix A to part 722 is removed.

[FR Doc. 95-5592 Filed 3-10-95; 8:45 am]

BILLING CODE 7535-01-U

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[FI-59-91]

RIN 1545-AQ86

**Debt Instruments With Original Issue Discount; Contingent Payments; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains a correction to the notice of proposed rulemaking (FI-59-91), which was published in the **Federal Register** for Friday, December 16, 1994 (59 FR 64884). The proposed regulations relate to the tax treatment of debt instruments that provide for one or more contingent payments.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations (other than § 1.1275-6), Andrew C. Kittler, (202)622-3940, or William E. Blanchard, (202) 622-3950; concerning § 1.1275-6, Michael S. Novey, (202) 622-3900; concerning submissions and the hearing, Michael Slaughter, (202) 622-7190 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background**

The proposed regulations that are the subject of this correction are under section 1275 of the Internal Revenue Code.

**Need for Correction**

As published, the proposed rulemaking contains a typographical error that is in need of correction.

**Correction of Publication**

Accordingly, the publication of proposed regulations (FI-59-91), which was the subject of FR Doc. 94-30728, is corrected as follows:

On page 64885, column 1, in the preamble under the heading "*Background*", paragraph 2, line 6, the language "February 4, 1994, the IRS published in" is corrected to read "February 2, 1994, the IRS published in".

**Cynthia E. Grigsby,**  
*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 95-6028 Filed 3-10-95; 8:45 am]

BILLING CODE 4830-01-P

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD05-94-118]

**Drawbridge Operation Regulations; Atlantic Intracoastal Waterway—Alternate Route, Elizabeth City, NC**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** At the request of the Albemarle and Chesapeake Railroad Company, the Coast Guard is proposing to change the regulations that govern the operation of the drawbridge across the Pasquotank River, Atlantic Intracoastal Waterway—Alternate Route, mile 47.7, at Elizabeth City, North Carolina, by leaving the draw in the open position except for the passage of trains. The proposed change to these regulations are, to the extent practical and feasible, intended to relieve the bridgeowners of the burden of having a person constantly available to open the draw bridge while still providing for the reasonable needs of navigation.

**DATES:** Comments must be received on or before May 12, 1995.

**ADDRESSES:** Comments may be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or may be delivered to Room 109 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (804) 398-6222. Comments will become part of this docket and will be available for inspection at Room 109, Fifth Coast Guard District.

**FOR FURTHER INFORMATION CONTACT:** Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398-6222.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05-94-118) and the specific section of this proposal of which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting