

§ 721.5 What limitations apply to a credit union engaging in activities approved under this part?

You must comply with any applicable NCUA regulations, policies, and legal opinions, as well as applicable state and federal law, if an activity authorized under this part is otherwise regulated or conditioned.

§ 721.6 May a credit union derive income from activities approved under this part?

You may earn income for those activities determined to be incidental to your business.

§ 721.7 What are the potential conflicts of interest for officials and employees when credit unions engage in activities approved under this part?

(a) *Conflicts.* No official, employee, or their immediate family member may receive any compensation or benefit, directly or indirectly, in connection with your engagement in an activity authorized under this part, except as otherwise provided in paragraph (b) of this section. This section does not apply if a conflicts of interest provision within another section of this chapter applies to a particular activity; in such case, the more specific conflicts of interest provision controls. For example: An official or employee that refers loan-related products offered by a third-party to a member, in connection with a loan made by you, is subject to the conflicts of interest provision in § 701.21(c)(8) of this chapter.

(b) *Permissible payments.* This section does not prohibit:

(1) Payment, by you, of salary to your employees;

(2) Payment, by you, of an incentive or bonus to an employee based on your overall financial performance;

(3) Payment, by you, of an incentive or bonus to an employee, other than a senior management employee or paid official, in connection with an activity authorized by this part, provided that your board of directors establishes written policies and internal controls for the incentive program and monitors compliance with such policies and controls at least annually; and

(4) Payment, by a person other than you, of any compensation or benefit to

an employee, other than a senior management employee or paid official, in connection with an activity authorized by this part, provided that your board of directors establishes written policies and internal controls regarding third-party compensation and determines that the employee's involvement does not present a conflict of interest.

(c) *Business associates and family members.* All transactions with business associates or family members not specifically prohibited by paragraph (a) of this section must be conducted at arm's length and in the interest of the credit union.

(d) *Definitions.* For purposes of this part, the following definitions apply.

(1) *Senior management employee* means your chief executive officer (typically, this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g. Assistant President, Vice President, or Assistant Treasurer/Manager), and the chief financial officer (Comptroller).

(2) *Official* means any member of your board of directors, credit committee or supervisory committee.

(3) *Immediate family member* means a spouse or other family member living in the same household.

PART 722—APPRAISALS

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AUTHORITY: 12 U.S.C. 1766, 1789, and 3331 *et seq.* Section 722.3(a) is also issued under 15 U.S.C. 1639h.

SOURCE: 55 FR 30207, July 25, 1990, unless otherwise noted.

§ 722.1 Authority, purpose, and scope.

(a) *Authority.* Part 722 is issued by the National Credit Union Administration (“NCUA”) under title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”) (Pub. L. 101-73, 103 Stat. 183, 1989) and 12 U.S.C. 1757 and 1766.

(b) *Purpose and scope.* (1) Title XI provides protection for federal financial and public policy interests in real estate-related transactions by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards, by appraisers whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. This part implements the requirements of title XI and applies to all federally related transactions entered into by the National Credit Union Administration or by federally insured credit unions (“regulated institutions”).

(2) This part: (i) Identifies which real estate-related financial transactions require the services of an appraiser;

(ii) Prescribes which categories of federally related transactions shall be appraised by a state-certified appraiser and which by a state-licensed appraiser; and

(iii) Prescribes minimum standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the National Credit Union Administration.

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, § 722.1 was redesignated as § 722.101, effective Oct. 1, 2025.

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§ 722.2 Definitions.

Appraisal means 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(s), supported by the presentation and analysis of relevant market information.

Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

Appraisal Subcommittee means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Complex means a transaction in which the property to be appraised, the form of ownership, or market conditions are atypical. A credit union 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.

Federal financial institutions regulatory agency means the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation (FDIC); the Office of the Comptroller of the Currency, Treasury (OCC); the NCUA, and, formerly, the Office of Thrift Supervision.

Federally related transaction means any real estate-related financial transaction entered into on or after August 9, 1990 that:

(1) The National Credit Union Administration, or any federally insured credit union, engages in or contracts for; and

(2) Requires the services of an appraiser.

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

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(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Real estate (or real property) means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a parcel or tract of land, but does not include mineral rights, timber rights, and growing crops, water rights and similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

Real estate-related financial transaction means any transaction involving:

(1) The sale, lease, purchase, investment in or exchange of real estate, including interests in property, or the financing thereof; or

(2) The refinancing of real estate or interests in real estate; or

(3) The use of real estate or interests in property as security for a loan or investment, including mortgage-backed securities.

Residential real estate transaction means a real estate-related financial transaction that is secured by a single 1-to-4 family residential property.

Staff appraiser means a State-certified or a State-licensed appraiser that is an employee of the credit union.

State-certified appraiser means any individual who has satisfied the requirements for certification in a state or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation. No individual shall be a state-certified appraiser unless such individual has achieved a passing grade upon a suitable examination administered by a state or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Ap-

praiser Qualification Board. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, practices, or procedures of a state or territory are inconsistent with title XI of FIRREA. The National Credit Union Administration may, from time to time, impose additional qualification criteria for certified appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

State-licensed appraiser means any individual who has satisfied the requirements for licensing in a state or territory where the licensing procedures comply with title XI of FIRREA and where the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI. The NCUA may, from time to time, impose additional qualification criteria for licensed appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

Tract development means a project of five units or more that is constructed or is to be constructed as a single development.

Transaction value means:

(1) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(2) For sales, leases, purchases, and investments in or exchanges of real estate, the market value of the real estate interest involved; and

(3) For the pooling of loans or interests in real estate for resale or purchase, the amount of the loan or market value of the real estate calculated with respect to each such loan or interest in real estate.

[84 FR 35536, July 24, 2019]

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, § 722.2 was redesignated as § 722.102, effective Oct. 1, 2025.

§ 722.3 Appraisals and written estimates of market value requirements for real estate-related financial transactions.

(a) *Real estate-related financial transactions not requiring an appraisal under this part.* Provided the transaction is not a “higher-priced mortgage loan” under 12 CFR 1026.35, which must meet

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separate appraisal requirements under section 129H of the Truth in Lending Act, 15 U.S.C. 1639h, an appraisal is not required for a real estate-related financial transaction in which:

(1) The transaction involves an existing extension of credit at the lending credit union, provided that:

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

(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, even with the advancement of new monies;

(2) A lien on real estate 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 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 estate, including mortgage-backed securities, and each loan or interest in a loan, pooled loan, or real estate interest met the requirements of this regulation, if applicable, at the time of origination; or

(6) The transaction either qualifies for sale to a United States government agency or United States government-sponsored agency, or 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.

(b) *Real estate-related financial transactions requiring an appraisal by a state-certified appraiser.* An appraisal performed by a state-certified appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) of this section in which:

(1) The transaction value is \$1,000,000 or more; or

(2) The transaction is complex, involves a residential real estate transaction, and \$400,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government sponsored agency.

(c) *Real estate-related financial transactions requiring an appraisal by either a state-certified or state-licensed appraiser.*

(1) An appraisal performed by a state-certified appraiser or a state-licensed appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) of this section in which the transaction is not complex, involves a residential real estate transaction, and \$400,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government sponsored agency.

(2) If, during the course of an appraisal of a residential real estate transaction performed by a state-licensed appraiser, factors are identified that result in the transaction meeting the definition of complex, then the credit union may either:

(i) Ask the state-licensed appraiser to complete the appraisal and have a state-certified appraiser approve and cosign the appraisal; or

(ii) Engage a state-certified appraiser to complete the appraisal.

(d) *Real estate-related financial transactions requiring a written estimate of market value—(1) Applicability.* Any real estate-related financial transaction must be supported by a written estimate of market value, unless:

(i) An appraisal performed by a state-certified or state-licensed appraiser was obtained;

(ii) An appraisal is not required under paragraphs (a)(2) through (6) of this section; or

(iii) The transaction is fully insured or guaranteed by a United States government agency or United States government-sponsored agency.

(2) *Requirements.* All written estimates of market value required under this paragraph must be performed by an individual:

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(i) Independent of the loan production and collection processes (if independence cannot be achieved, the credit union must be able to demonstrate clearly that it has prudent safeguards to isolate its collateral valuation program from influence or interference from the loan production process and collection process);

(ii) Having no direct, indirect, or prospective interest, financial or otherwise, in the property or the transaction; and

(iii) 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.* The NCUA reserves the right to require an appraisal under this subpart whenever the agency believes it is necessary to address safety and soundness concerns.

(f) [Reserved]

[84 FR 35537, July 24, 2019, as amended at 85 FR 23917, Apr. 30, 2020]

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, § 722.3 was redesignated as § 722.103, effective Oct. 1, 2025.

§ 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) Be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

(d) 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;

(e) Be based upon the definition of market value as set forth in § 722.2; and

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

[60 FR 51894, Oct. 4, 1995, as amended at 85 FR 23917, Apr. 30, 2020]

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, § 722.4 was redesignated as § 722.104, effective Oct. 1, 2025.

§ 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

(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]

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, § 722.5 was redesignated as § 722.105, effective Oct. 1, 2025.

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§ 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.

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, § 722.6 was redesignated as § 722.106, effective Oct. 1, 2025.

§ 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.

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, § 722.7 was redesignated as § 722.107, effective Oct. 1, 2025.

Subpart A—Appraisals Generally

EFFECTIVE DATE NOTE: At 89 FR 64575, Aug. 7, 2024, a subpart A heading was added and §§ 722.101 through 722.107 are redesignated as Subpart A, effective Oct. 1, 2025.

Subpart B—Quality Control Standards for Automated Valuation Models Used for Mortgage Lending Purposes

SOURCE: 89 FR 64576, Aug. 7, 2024, unless otherwise noted.

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EFFECTIVE DATE NOTE: At 89 FR 64576, Aug. 7, 2024, subpart B was added, effective Oct. 1, 2025.

§ 722.201 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to section 1125 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3354, as added by section 1473(q) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1375, 2198 (2010)).

(b) *Purpose and scope.* (1) The purpose of this subpart is to implement the quality control standards in section 3354 of title 12 for the use of automated valuation models in determining the value of collateral in connection with making a credit decision or covered securitization determination regarding a mortgage or mortgage-backed security. This subpart applies to credit unions insured by the NCUA that are mortgage originators or secondary market issuers.

(2) This subpart does not apply to the use of automated valuation models in:

- (i) Monitoring of the quality or performance of mortgages or mortgage-backed securities;
- (ii) Reviews of the quality of already completed determinations of the value of collateral; or
- (iii) The development of an appraisal by a certified or licensed appraiser.

§ 722.202 Definitions.

As used in this subpart:

Automated valuation model means any computerized model used by mortgage originators and secondary market issuers to determine the value of a consumer's principal dwelling collateralizing a mortgage.

Control systems means the functions (such as internal and external audits, risk review, quality control, and quality assurance) and information systems that are used to measure performance, make decisions about risk, and assess the effectiveness of processes and personnel, including with respect to compliance with statutes and regulations.

Covered securitization determination means a determination regarding:

- (1) Whether to waive an appraisal requirement for a mortgage origination in connection with its potential sale or

transfer to a secondary market issuer; or

(2) Structuring, preparing disclosures for, or marketing initial offerings of mortgage-backed securitizations.

Credit decision means a decision regarding whether and under what terms to originate, modify, terminate, or make other changes to a mortgage, including a decision whether to extend new or additional credit or change the credit limit on a line of credit.

Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, factory-built housing, or manufactured home, if it is used as a residence. A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home would not be a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this subpart.

Mortgage means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in a consumer's principal dwelling.

Mortgage originator means:

(1) Any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain—

- (i) Takes a mortgage application;
- (ii) Assists a consumer in obtaining or applying to obtain a mortgage; or
- (iii) Offers or negotiates terms of a mortgage;

(2) Includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in paragraph (1) of this definition;

(3) Does not include any person who is—

(i) Not otherwise described in paragraph (1) or (2) of this definition and who performs purely administrative or clerical tasks on behalf of a person who is described in any such paragraph; or

(ii) A retailer of manufactured or modular homes or an employee of the retailer if the retailer or employee, as applicable—

(A) Does not receive compensation or gain for engaging in activities described in paragraph (1) of this definition that is in excess of any compensation or gain received in a comparable cash transaction;

(B) Discloses to the consumer—

(1) In writing any corporate affiliation with any creditor; and

(2) If the retailer has a corporate affiliation with any creditor, at least 1 unaffiliated creditor; and

(C) Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs);

(4) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

(5) Does not include a person that meets all of the following criteria:

(i) The person provides seller financing for the sale of three or fewer properties in any 12-month period to purchasers of such properties, each of which is owned by the person and serves as security for the financing;

(ii) The person has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The person provides seller financing that meets the following requirements:

(A) The financing is fully amortizing;

(B) The financing is one that the person determines in good faith the consumer has a reasonable ability to repay;

(C) The financing has a fixed rate or an adjustable rate that is adjustable

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after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(6) Does not include a natural person, estate, or trust that meets all of the following criteria:

(i) The natural person, estate, or trust provides seller financing for the sale of only one property in any 12-month period to purchasers of such property, which is owned by the natural person, estate, or trust and serves as security for the financing;

(ii) The natural person, estate, or trust has not constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of the person;

(iii) The natural person, estate, or trust provides seller financing that meets the following requirements:

(A) The financing has a repayment schedule that does not result in negative amortization;

(B) The financing has a fixed rate or an adjustable rate that is adjustable after five or more years, subject to reasonable annual and lifetime limitations on interest rate increases. If the financing agreement has an adjustable rate, the rate is determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or SOFR.

(7) Does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a mortgage for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

Person has the meaning given in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

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Secondary market issuer means any party that creates, structures, or organizes a mortgage-backed securities transaction.

§ 722.203 Quality control standards.

Mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, must adopt and maintain policies, practices, procedures, and control systems to ensure that automated valuation models used in these transactions adhere to quality control standards designed to:

(a) Ensure a high level of confidence in the estimates produced;

(b) Protect against the manipulation of data;

(c) Seek to avoid conflicts of interest;

(d) Require random sample testing and reviews; and

(e) Comply with applicable non-discrimination laws.

PART 723—MEMBER BUSINESS LOANS; COMMERCIAL LENDING

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

SOURCE: 81 FR 13554, Mar. 14, 2016, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 723 appear at 84 FR 1608, Feb. 5, 2019.

§ 723.1 Purpose and scope.

(a) *Purpose.* This part is intended to accomplish two broad objectives. First, it sets out policy and program responsibilities that a federally insured credit union must adopt and implement as part of a safe and sound commercial