



May 11, 2020

8584 Katy Freeway, Suite 420

Houston, TX 77024

Phone: 713-871-0005

Fax: 713-871-1358

Partners

Thomas E. Black, Jr.¹

Gregory S. Graham²

Shawn P. Black³

Managing Attorney Houston

Ryan Black⁴

Senior Lawyers

David F. Dulock

Diane M. Gleason

Daniel S. Engle⁵

Margaret Noles

Associates

Nick Stevens

Syndy Davis

Brandon Pieratt

Of Counsel

David M. Tritter

Calvin C. Mann, Jr.

Retired Partner(s)

Calvin C. Mann, Jr.

¹ Also Licensed in Iowa, New York, and Washington

² Also Licensed in Georgia

³ Also Licensed in Kentucky and New York

⁴ Also Licensed in Washington D.C.

⁵ Also Licensed in New York

To: Clients and Friends

From: David F. Dulock

Subject: Interim Rule Amends NCUA Regulations to Temporarily Defer Appraisal and Written Estimate of Market Value Requirements for Certain Real Estate Transactions

In the April 21, 2020, *Federal Register* (85 FR 22014 [click here](#)), the National Credit Union Administration (NCUA) adopted an interim final rule deferring the regulatory requirement for credit unions to obtain an appraisal or written estimate of market value for up to 120 days following the closing of a transaction for residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate.

The interim final rule (herein Rule) is effective April 21, 2020 through December 31, 2020. The Rule provides that covered real estate transactions closing on December 31, 2020 are also eligible for the Rule's 120-day appraisal or written estimate of market value deferral.

In addition, the Rule makes the following requirements:

1. "Credit unions [that defer receipt of an appraisal or written estimate of market value] should make best efforts to obtain a credible valuation of real property collateral before the loan closing[.]"

2. "Credit unions that defer receipt of an appraisal or written estimate of market value are still expected to conduct their lending activity consistent with safe and sound underwriting principles, such as the ability of a borrower to repay a loan and other relevant laws and regulations."

3. "The deferrals are not a waiver of USPAP requirements ... and the deferred appraisal must be conducted in compliance with USPAP."

4. "Written estimates of market value do not need to comply with USPAP, but must be sufficiently robust to support a valuation conclusion."

5. "By the end of the deferral period, credit unions must obtain appraisals or written estimates of market value that are consistent with safe and sound practices as required by NCUA's appraisal regulations."

6. "NCUA also expects credit unions to develop an appropriate risk mitigation strategy if the appraisal or written estimate of market value ultimately reveals a market value significantly lower than the expected market value. A credit union's risk mitigation strategy should consider safety and soundness risk to the institution, balanced with mitigation of financial harm to COVID-19-affected borrowers."

The Rule's temporary deferral amends the NCUA appraisal regulations in part 722 of title 12 of the Code of Federal Regulations by adding paragraph (g) to Section 722.3.

(2 pages)

In closing, we advise that you not rely solely on this memorandum's brief summary of the Rule and that you read the Rule, including the footnote legal citations that provide the legal basis and requirements for complying with the Rule.

This Memorandum is provided as general information in regard to the subject matter covered, but no representations or warranty of the accuracy or reliability of the content of this information are made or implied. Opinions expressed in this memorandum are those of the author alone. In publishing this information, neither the author nor the law firm of Black, Mann & Graham L.L.P. is engaged in rendering legal services. While this information concerns legal and regulatory matters, it is not legal advice and its use creates no attorney-client relationship or any other basis for reliance on the information. Readers should not place reliance on this information alone, but should seek independent legal advice regarding the law applicable to matters of interest or concern to them. The law firm of Black, Mann & Graham L.L.P. expressly disclaims any obligation to keep the content of this information current or free of errors.