



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

February 13, 1990

Office of General Counsel

GC/HMU:sg
SSIC 3320
89-1109A

Ms. Margie H. Muller
Maryland State Bank Commissioner
The Brokerage - Suite 800
32 Market Place
Baltimore, MD 21202-4076

Re: Appraisal Requirements (Your
Letter of January 5, 1990)

Dear Ms. Muller:

We have reviewed your letter and the attached letter from David Porter, Assistant Attorney General, concerning the applicability of Section 2-110 of the Maryland Financial Institutions Article to Federal credit unions (FCU's) in Maryland. As you know, we also met with Mr. Porter and his colleagues on January 10 to further discuss the issue. We are not convinced of the applicability of Section 2-110 to Maryland FCU's. Our opinion, as expressed in our December 11, 1989, letter to James R. Brown, III remains unchanged. A copy of the letter to Mr. Brown is enclosed.

FCU's may wish to voluntarily comply with the Maryland statute until all of the provisions of the Federal Financial Reform, Recovery, and Enforcement Act (FIRREA) are implemented. As you may know, the NCUA, along with the other Federal financial regulators, have been working on a uniform regulation to implement provisions of FIRREA concerning appraisals. The NCUA Board issued a proposed appraisal regulation at their February 7, 1990 open meeting. A copy of the proposed rule is enclosed. We anticipate that the NCUA Board will issue a final rule in the summer of 1990. The FIRREA requires that the financial agencies issue final

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appraisal rules within one year of its enactment (date of enactment - August 9, 1989). The pending final rule further supports our position on preemption.

Please contact us if further questions arise.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Associate General Counsel

Enclosures

cc: James R. Brown, III, Esq.



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December 11, 1989

James R. Brown, III Esq.
Brown & Brown, Chartered
8501 La Salle Road
Towson, Maryland 21204-5980

Re: Preemption of Maryland Statute Requiring
Real Estate Appraisal Policies and Procedures
(Your November 3, 1989, Letter)

Dear Mr. Brown:

You have asked whether Federal credit unions ("FCU's") located in Maryland must comply with Section 2-110 of the Financial Institutions Article of the Annotated Code of Maryland, providing that directors and officers of financial institutions shall develop and implement written real estate appraisal policies and procedures pertaining to the hiring and performance of real estate appraisers. This Maryland statute is preempted by Section 701.21(b)(1)(iii)(C) of NCUA's Regulations (12 C.F.R. 701.21(b)(1)(iii)(C)). NCUA's Regulations do not currently contain any specific appraisal requirements. Pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), NCUA is currently developing an appraisal regulation in conjunction with the other financial institutions regulators.

ANALYSIS

Section 2-110 of the Financial Institutions Article of the Annotated Code of Maryland requires directors and officers of financial institutions to develop and implement written real estate appraisal policies and procedures pertaining to the hiring and performance of real estate appraisers. The policies must be submitted to the State Bank Commissioner for

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review and approval. You state that the Bank Commissioner is taking the position that FCU's are subject to this statute.

Section 701.21(b)(1)(iii)(C) of NCUA's Regulations preempts any state law affecting "the type or amount of security and the relation of the value of the security to the amount of the loan or line of credit." This provision preempts the Maryland statute.

Presently, appraisal standards are set by the FCU's board of directors and are subject to review by NCUA on a safety and soundness basis. As you are aware, NCUA has also issued Letter to Credit Unions No. 112 regarding real estate lending. Letter No. 112 contains specific guidance on appraisals.

FIRREA requires NCUA, in conjunction with the other financial institutions regulators, to issue regulations on appraisals. FIRREA requires that a proposed rule be issued in February, 1990, and a final rule in August, 1990. The rule will apply to all federally-insured credit unions.

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Associate General Counsel