and Fee Schedule can be presented in any format. To ensure that it is a part of the account agreement, if used, it should be incorporated by reference into the appropriate share account disclosures. The figures used are illustrative only.

B–12 AGGREGATE OVERDRAFT AND RETURNED ITEM FEES SAMPLE FORM

	Total for this period	Total year-to-date
Total Overdraft Fees	$60.00	$150.00
Total Returned Item Fees	0.00	30.00

[58 FR 50445, Sept. 27, 1993, as amended at 59 FR 13436, 13437, Mar. 22, 1994; 63 FR 71575, Dec. 29, 1998; 72 FR 30246, May 31, 2007; 74 FR 36104, July 22, 2009]

APPENDIX C TO PART 707—OFFICIAL STAFF INTERPRETATIONS

Introduction

1. *Official status.* This commentary is the means by which the staff of the Office of General Counsel of the National Credit Union Administration issues official staff interpretations of Part 707 of the NCUA Rules and Regulations. Good faith compliance with this commentary affords protection from liability under section 271(f) of the Truth in Savings Act (TISA), 12 U.S.C. 4311.

Section 707.1—Authority, Purpose, Coverage, and Effect on State Laws

(c) Coverage

1. *Foreign applicability.* Part 707 applies to all credit unions that offer share and deposit accounts to residents (including resident aliens) of any state as defined in §707.2(v) and that offer accounts insurable by the National Credit Union Share Insurance Fund (NCUSIF) whether or not such accounts are insured by the NCUSIF. Corporate credit unions designated as such by NCUA under 12 CFR 704.2 (definition of ''corporate credit union'') are exempt from part 707.

2. *Persons who advertise accounts.* Persons who advertise accounts are subject to the advertising rules. This includes agent and agented accounts, such as a member who subdivides interests in a jumbo term share certificate account for sale to other parties or among members who form a certificate account investment club. For example, if an agent places an advertisement that offers members an interest in an account at a credit union, the advertising rules apply to the advertisement, whether the account is held by the agent or directly by the member.

3. *Nonautomated credit unions.* Nonautomated credit unions with an asset size of $2 million or less, after subtracting any nonmember deposits, are exempt from TISA and part 707. NCUA defines a ''nonautomated credit union'' as a credit union without sufficient data processing capability and capacity to establish, operate and maintain a share and loan software system to timely and accurately process all account transactions of all members. The nonautomated credit union exemption is available to all credit unions meeting the asset size and automation standards of this comment, including newly chartered credit unions. If any of the credit unions eligible for this exemption grow to have more than $2 million in assets as of December 31 of any year, the NCUA Board will require such credit unions to comply with TISA and part 707 on January 1 of one year after such credit union loses its exemption eligibility. Similarly, if a credit union becomes sufficiently automated to operate a complete share and loan system, such credit union will be entitled to the same compliance phase-in period.

(d) Effect on State Laws

1. *Preemption of state laws/Inconsistent requirements.* State law requirements that are inconsistent with the requirements of TISA and part 707 are preempted to the extent of the inconsistency. A state law is inconsistent if it requires a credit union to make disclosures or take actions that contradict the requirements of the federal law. A state law is also contradictory if it requires the use of the same term to represent a different amount or a different meaning than the federal law, requires the use of a term different from that required in the federal law to describe the same item, or permits a method of calculating dividends or interest on an account different from that required in the federal law.

2. *Preemption determinations.* A credit union, state, or other interested party may request the Board to determine whether a state law requirement is inconsistent with the federal requirements. A request for a determination should be addressed to NCUA's Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314. Written preemption requests should cite (or include a copy of) the allegedly inconsistent state law, demonstrate the inconsistency with TISA and part 707 and the burden on credit unions, and formally request a preemption determination. The Office of General Counsel may provide other interested parties, particularly affected states, an informal opportunity to comment on any request for a preemption determination, unless it finds that such notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest. NCUA will publicize any preemption determinations using any means readily at its disposal.

3. *Effect of preemption determinations.* After the Board, through its Office of General Counsel, determines that a state law is inconsistent, a credit union may not make disclosures using the inconsistent term or take actions relying on the inconsistent law.

4. *Reversal of determination.* The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of state or federal law.

Section 707.2—Definitions

(a) Account

1. *Covered accounts.* Examples of accounts subject to the regulation are:

i. Dividend-bearing and interest-bearing accounts.

ii. Non-dividend-bearing and non-interest-bearing accounts.

iii. Accounts opened as a condition of obtaining a credit card.

iv. Escrow accounts with a consumer purpose, such as an account established by a member to escrow rental payments, pending resolution of a dispute with the member's landlord.

v. Accounts held by a parent or custodian for a minor under a state's Uniform Gift to Minors Act (or Uniform Transfers to Minors Act).

vi. Individual retirement accounts (IRAs) and simplified employee pension (SEP) accounts.

vii. Payable-on-Death (POD) or "Totten trust" accounts.

2. *Other accounts.* Examples of accounts *not* subject to the regulation are:

i. Mortgage escrow accounts for collecting taxes and property insurance premiums.

ii. Accounts established to make periodic disbursements on construction loans.

iii. Trust accounts opened by a trustee pursuant to a formal written trust agreement (not merely declarations of trust on a signature card such as a "Totten trust," or an IRA or SEP account).

iv. Accounts opened by an executor in the name of decedent's estate.

v. Accounts of individuals operating businesses as sole proprietors.

vi. Certificates of indebtedness. Some credit unions borrow funds from their members through a certificate of indebtedness that sets forth the terms and conditions of the repayment of the borrowing, such as federal credit unions do through 12 CFR 701.38. Such an account does not represent an account in a credit union and is not covered by part 707.

vii. Unincorporated nonbusiness association accounts.

3. *Other investments.* The term "account" does not apply to these products. Examples of products not covered are:

i. Government securities.

ii. Mutual funds.

iii. Annuities.

iv. Securities or obligations of a credit union.

v. Contractual arrangements such as repurchase agreements, interest rate swaps, and bankers acceptances.

vi. Purchases of U.S. Savings Bonds through a credit union.

vii. Services offered through a group purchasing plan or a credit union service organization (CUSO).

4. *Options.* All dividend-bearing and interest-bearing accounts are either fixed-rate or variable-rate accounts.

5. *Use of synonyms.* Generally, it is not the purpose of part 707 to prohibit specific descriptive terms for accounts. For example, credit unions can use adjectives and trade names to describe accounts such as "Best Share Draft Account," or "Ultra Money Market Share Account." Synonyms for share, share draft, money market share, and term share accounts may be used to describe various types of credit union share and deposit accounts as long as the synonym is accurate and not misleading and, for account disclosures, is used in conjunction with the correct legal term. For example, the following synonyms may be used:

i. The term "checking account" may be used to describe share draft accounts.

ii. The term "money market account" may be used to describe money market share accounts.

iii. The term "savings account" may be used to describe regular share and share accounts.

iv. The terms "share certificate," "certificate account," or "certificate" may be used to describe share certificates and other dividend-bearing term share accounts.

v. However, under no circumstances may a credit union describe a share account as a deposit account, or vice versa. For example, the term "certificate of deposit" or "CD" may not be used to describe share certificates and other dividend-bearing term share accounts. Similarly, the terms "time account" (used in Regulation DD, 12 CFR 230.2(u)) and "time deposit" (used in Regulation D, 12 CFR 204.2(c)) may not be used to describe term share accounts.

(b) Advertisement

1. *Covered messages.* Advertisements include commercial messages in visual, oral, or print media that invite, offer, or otherwise announce generally to members and potential members the availability of member accounts such as:

i. Telephone solicitations.

ii. Messages on automated teller machine (ATM) screens (including any printout).

iii. Messages on a computer screen in a credit union's lobby (including any printout) other than a screen viewed solely by the credit union's employee.

iv. Messages in a newspaper, magazine, or promotional flyer or on radio or television.

v. Messages promoting an account that are provided along with information about the member's existing account at a credit union and that promote another account at the credit union (such as account promotional messages on the periodic statement).

2. *Other messages*. Examples of messages that are *not* advertisements are:

i. Rate sheets published in newspapers, periodicals, or trade journals (unless the credit union or share and deposit broker that offers accounts at the credit union pays a fee to have the information included or otherwise controls publication).

ii. Telephone conversations initiated by a member or potential member about an account.

iii. An in-person discussion with a member about the terms for a specific account.

iv. For purposes of §707.8(b) of this part through §707.8(e) of this part, information given to members about existing accounts, such as current rates recorded on a voice-response machine or notices for automatically renewable time account sent before renewal.

v. Information about a particular transaction in an existing account.

vi. Disclosures required by Federal or other applicable law.

vii. A share account agreement.

(c) Annual Percentage Yield.

1. *General*. The annual percentage yield (APY) is required for disclosures for new accounts, oral responses to inquiries about rates; disclosures provided upon request; initial disclosures (if the credit union chooses to provide full disclosures instead of the abbreviated notice); notices prior to the renewal of a term share account, if known at the time the notice is sent, and in advertising. The annual percentage yield shows the total amount of dividends for a 365 day period (or a 366 day period for a leap year) on an assumed principal amount based on the dividend rate and frequency of compounding as a percentage of the assumed principal (for accounts such as share or share draft accounts) or for the total amount of dividends over the term of the account for term share accounts. The annual percentage yield assumes the principal amount remains in the account for 365 days (366 days for leap year) or for the term of the account.

2. *How Annual Percentage Yield Differs from Annual Percentage Yield Earned*. The annual percentage yield (APY) differs from the annual percentage yield earned (APYE). The annual percentage yield earned is required for periodic statements only. The annual percentage yield earned shows the total amount of dividends earned for the dividend or statement period as a percent of the actual average daily balance in the member's account. Unlike the annual percentage yield, the annual percentage yield earned is affected by additions and withdrawals during the period. The annual percentage yield and the annual percentage yield earned must be calculated according to the formulas provided in appendix A to this rule.

(d) Average Daily Balance Method

1. *General*. One of the two required methods (the daily balance is the other) of determining the balance upon which dividends must be accrued and paid. The average daily balance method requires the application of a periodic rate to the average daily balance in the account for the average daily balance calculation period. The average daily balance is determined by adding the full amount of principal in the account for each day of the period and dividing that figure by the number of days in the period.

(e) Board.

1. *General*. The NCUA Board.

(f) Bonus

1. *General*. Bonuses include items of value offered as incentives to members, such as an offer to pay the final installment deposit for a holiday club account if the final installment is over $10. Bonuses do not include the payment of dividends (including extraordinary dividends), the waiver or reduction of a fee, the absorption of expenses, non-dividend membership benefits, or other consideration aggregating $10 or less per year.

2. *Examples*. The following are examples of bonuses.

i. A credit union offers $25 to potential members for becoming a member and opening an account. The $25 could be provided by check, cash, or direct deposit.

ii. A credit union offers $25 to a member with only a regular share account to open a share draft account. The $25 could be provided by check, cash, or direct deposit.

iii. A credit union offers a portable radio with a value of $20 to members and potential members for opening a share draft account.

iv. A credit union pays the final installment deposit for a holiday club account if over $10.

3. *Examples not comprising bonuses*. The following are examples of items that are *not* bonuses:

i. Discount coupons distributed by credit unions for use at restaurants or stores.

ii. A credit union offers $20 to any member if the member is responsible for encouraging a potential member to open an account. The $20 is not a bonus because the $20 is not paid to the individual opening the account. Any item, including cash, given or offered to a third party (that is not a joint member or joint owner in an account being opened) in exchange for a member or potential member opening (or a member renewing or adding to) an account is not a bonus.

iii. A credit union offers $25 to a member if the member can locate his name in the body of a newsletter.

iv. Life savings benefits. Many credit unions offer life savings benefits to beneficiaries of deceased members. Because the benefit accrues to a third party, such life savings plans offered are not bonuses.

v. A credit union offers to pay annual membership dues in a benevolent organization for a class of members.

4. *De minimis rule.* Items with a *de minimis* value of $10 or less are not bonuses. Credit unions may rely on the valuation standard used by the Internal Revenue Service (IRS) to determine if the value of the item is *de minimis.* Items required to be reported by the credit union under IRS rules are bonuses under this regulation. Examples of items of *de minimis* values are:

i. Disability insurance premiums on a share account valued at an amount of $10 or less per year.

ii. Coffee mugs, T-shirts or other merchandise with a market value of $10 or less per year.

5. *Aggregation.* In determining if an item valued at $10 or less is a bonus, credit unions must aggregate per account per calendar year items that may be given to members. In making this determination, credit unions aggregate per account only the market value of items that may be given for a specific promotion. To illustrate, assume a credit union offers in January to give members an item valued at $7 for each calendar quarter during the year that the average account balance in a share draft account exceeds $10,000. The bonus rules are triggered, since members are eligible under the promotion to receive up to $28 during the year. However, the bonus rules are not triggered if an item valued at $7 is offered to members opening a share draft account during the month of January, even though in November the credit union introduces a new promotion that includes, for example, an offer to existing share draft accountholders for an item valued at $8 for maintaining an average balance of $5,000 for the month.

6. *Waiver or reduction of a fee or absorption of expenses.* Bonuses do not include value received by members through the waiver or reduction of fees for credit union-related services (even if the fees waived exceed $10), such as the following:

i. Waiving a safe deposit box rental fee for one year for members who open a new account.

ii. Waiving fees for travelers checks for members, and waiving check and share draft printing fees.

iii. Nondiscriminatorily waiving all fees for a particular class of members, such as seniors or minors.

iv. Discounts on interest rates charged for loans at the credit union.

v. Rebates of loan interest already paid by a member.

vi. Discounts on application fees charged for loans at the credit union.

vii. Packaged, linked, or tied-account services.

7. *Non-dividend membership benefits.* Such benefits are not bonuses because they are sporadic in nature, often difficult to value, and providing non-dividend membership benefits is a long-standing unique credit union practice. (See commentary to §707.2(r) for examples of such benefits.)

(g) Credit Union

1. *General.* Includes credit unions in the United States, Puerto Rico, Guam, U.S. Virgin Islands, and U.S. territories. Applies to credit unions whether or not the accounts in the credit union are federally, state, privately insured, or uninsured.

(h) Daily Balance Method

1. *General.* One of the two required methods (the average daily balance is the other) of determining the balance upon which dividends must be accrued and paid. The daily balance method requires the application of a daily periodic rate to the full amount of principal in the account each day.

(i) Dividend and Dividends

1. *General.* Member savings placed in share accounts are equity investments, and the returns earned on these accounts are dividends. Federal credit unions may only offer dividend-bearing and non-dividend-bearing share accounts. State-chartered credit unions may offer both share and deposit accounts if permitted by state law. State law, including without limitation regulations and official interpretations, will determine if returns earned in accounts in state-chartered credit unions are dividends. Dividends exclude the payment of a bonus or other consideration worth $10 or less given during a year, the waiver or reduction of a fee, the absorption of expenses, non-dividend membership benefits and extraordinary dividends. Dividend-bearing accounts must be either fixed-rate or variable-rate accounts.

2. *Procedure.* Credit unions must follow appropriate law (state law for state-chartered credit unions and federal law for federal credit unions) in determining dividend policies and declaring dividends. Generally, dividends may be viewed as a portion of the available account and undivided earnings of the credit union which is set apart, after required transfer to reserves, by valid act of the board of directors, for distribution among the members. As a matter of legal procedure, members are usually not entitled to dividends until the following steps are

completed: (1) The board of the credit union develops a nondiscriminatory dividend policy, by establishing dividend periods, dividend credit determination dates dividend distribution dates, any associated penalties (if applicable), and the method of dividend computation for each type of share account; (2) the provisions for required transfers to reserves are made; (3) sufficient and available prior and/or current earnings are available at the end of the dividend period; (4) the board formally makes a dividend declaration in accordance with the credit union's dividend policy; and (5) dividends must be paid to members by a credit to the appropriate share account, payment by check or share draft, or by a combination of the two methods.

3. *When available.* Credit unions must follow the law of their primary chartering authority to determine when dividends are available. Generally, it is the declaration of the dividend itself which creates the dividend and the member has no right to receive a dividend until it is so declared. The decision of when to declare dividends lies within the official discretion of each credit union's board of directors and cannot be abrogated by contract. An agreement to pay dividends on a share account is generally interpreted not as an obligation to pay the stipulated dividends absolutely and unconditionally, but as an undertaking to pay them out of the earnings when sufficiently accumulated from which dividends in general are properly payable. Generally, "prospective rates" are rates set in good faith in advance of the close of a dividend period, that may be altered if sufficient funds are not available, or in the event of a superseding event, such as a strike, plant closure, significant fluctuation in market rates and/or a significant change in financial structure, natural disaster or emergency that alters the assumptions under which the "prospective rates" were made. It is the intent of TISA that all disclosure be accurate when made, and credit unions are urged to make every effort to ratify disclosed "prospective rates." "Prospective rates" may also be referred to as "projected rates" or similar wording, but not as "estimated rates." (See comment 3(b)–2, prohibiting use of estimates).

4. *Sample dividend resolutions.* (i) The following resolution may be used where the dividend rates are set after the close of a dividend period.

RESOLUTION OF BOARD OF DIRECTORS FOR THE DECLARATION OF DIVIDENDS

A. I, ______________, certify that I am Secretary of ______________ Credit Union Board of Directors, and that the following is a correct copy of the resolution for declaring dividend adopted by the ______________ Credit Union at a meeting of the Board of Directors duly and properly held on ________________, 19____. This resolution appears in the minutes of this meeting and has not been rescinded or modified.

B. Resolved, that

(1) The Board of Directors has developed a nondiscriminatory dividend policy, by establishing dividend periods, dividend credit determination dates, dividend distribution dates, any associated penalties (if applicable), and the method of dividend computation for each type of share account;

(2) The required transfers to reserves have been made; and

(3) Sufficient and available prior and/or current earnings are available at the end of this dividend period.

C. Resolved, further, that the Board of Directors now formally makes a dividend declaration in accordance with the Credit Union's dividend policy and authorizes that on ______________, 19____, dividends must be paid to members by a credit to the appropriate share account, payment by share draft or by a combination of the two methods.

D. I further certify that the Board of Directors of this Credit Union has, and the time of adoption of this resolution had, full power and lawful authority to adopt the foregoing resolutions and that this resolution revokes any prior resolution.

In witness whereof, this is my signature and the date on which I signed this Resolution.

____

Signature

____

Date

[Attach list of accounts with dividend rates for each type of account.]

(ii) The following resolution may be used where the dividend rates are set before the close of a dividend period.

RESOLUTION OF BOARD OF DIRECTORS FOR THE DECLARATION OF DIVIDENDS

A. I, ______________, certify that I am the Secretary of ______________ Credit Union, and that the following is a correct copy of the resolution for declaring dividends adopted by the ______________ Credit Union at a meeting of the Board of Directors duly and properly held on ________________, 19____. This resolution appears in the minutes of that meeting and has not been rescinded or modified.

B. Resolved, that the Board of Directors has adopted a nondiscriminatory dividend policy, by establishing dividend periods, dividend credit determination dates, dividend distribution dates, any associated penalties (if applicable) and the method of dividend computation for each type of share account.

C. Resolved, that it is the policy and practice of the Board of Directors to meet periodically to establish prospective dividend rates for each type of dividend-bearing share account.

D. Resolved, that if the required transfers to reserves have been made and there are sufficient and available prior and/or current earnings available at the end of a dividend period, the officers of the Credit Union are authorized to pay dividends at the rate prospectively established by the Board of Directors for each account for the dividend period. The officers may pay the dividends without any further action of the Board of Directors. The act of paying the dividends shall constitute the declaration of the dividends and shall be a ratification of the prospective dividend rate.

In witness whereof, this is my signature and the date on which I signed this Resolution.

Signature

Date

[Attach list of accounts with prospective dividend rates for each type of account.]

5. *Referencing.* Except where specifically stated otherwise, use of the term ''share'' in part 707, as in ''share account,'' also refers to ''deposit,'' as in ''deposit account,'' where appropriate (for interest-bearing or non-interest-bearing deposit accounts at some state-chartered credit unions).

(j) Dividend Declaration Date

1. *General.* The importance of the dividend declaration date is to tie the last paid dividend to a certain period of time to place members and potential members on notice that the last paid dividend is different from the next dividend to be paid. In order to achieve this purpose, a credit union may use any of the following methods:

i. ''As of 3/15/95'' (the date the board of directors last met and declared the last paid dividend).

ii. ''As of 3/31/95'' (the last day of the last dividend period upon which a dividend has been paid).

iii. ''For the period 1/1/95 to 3/31/95'' (the last dividend period upon which a dividend has been paid).

iv. ''For the first quarter of 1995'' (the last dividend period upon which a dividend has been paid).

v. ''For April 1995'' (the last dividend period upon which a dividend has been paid).

vi. ''As of the last dividend declaration date'' (the last dividend period upon which a dividend has been paid).

(k) Dividend Period

1. *General.* The dividend period is to be set by a credit union's board of directors for each account type, e.g., regular share, share draft, money market share, and term share. The most common dividend periods are weekly, monthly, quarterly, semi-annually, and annually. Dividend periods need not agree with calendar months, e.g., a monthly dividend period could begin March 15 and end April 14.

(l) Dividend Rate

1. *General.* The dividend rate does not reflect compounding. Compounding is reflected in the ''annual percentage yield'' definition.

2. *Referencing.* Except where specifically stated otherwise, use of the term ''dividend rate'' in part 707 also refers to ''interest rate,'' where appropriate (for interest-bearing and non-interest-bearing deposit accounts at some state-chartered credit unions).

(m) Extraordinary Dividends

1. *General.* The definition encompasses all irregularly scheduled and declared dividends, and as dividends, extraordinary dividends are exempt from the ''bonus'' disclosure requirements. Extraordinary dividends do not have to be disclosed on account disclosures, but the dollar amount of an extraordinary dividend credited to the account during the statement period does have to be separately disclosed on the periodic statement for the dividend period during which the extraordinary dividends are earned. Extraordinary dividends, like ordinary dividends, do not include the payment of a bonus or other consideration worth $10 or less given during a year, the waiver or reduction of a fee, the absorption of expenses or non-dividend membership benefits. See comments 2(f) 1 through 7 and 2(i) 1 through 4. Extraordinary dividends may be calculated by any means determined by the board of directors of a credit union and may not be used in the annual percentage yield earned calculation.

2. *Use of synonym.* Extraordinary dividends may be described as ''bonus dividends.''

(n) Fixed-Rate Account

1. *General.* Includes all accounts in which the credit union, by contract, agrees to give at least 30 days advance written notice of decreases in the dividend rate. Thus, credit unions can decrease rates only after providing advance written notice of rate decreases, *e.g.*, a ''change-in-terms notice.''

(o) Grace Period

1. *General.* A period after maturity of an automatically renewing term share account during which the member may withdraw funds without being assessed a penalty. Use of a ''grace period'' is discretionary, not mandatory. This definition does not refer to the ''grace period'' account, which is a synonym for ''federal rollback method'' or ''in by the 10th'' accounts, which are prohibited by TISA and part 707.

(p) Interest

1. *General.* Member savings placed in deposit accounts are debt investments, and the return earned on these accounts is interest. Federal credit unions are not authorized to offer any interest-bearing deposit accounts. State-chartered credit unions may offer both share and deposit accounts if permitted by state law. State law, including without limitation regulations and official interpretations, will determine if returns earned in accounts in state-chartered credit unions are interest. Interest excludes the payment of a bonus or other consideration worth $10 or less given during a year, the waiver of reduction of a fee, the absorption of expenses, non-dividend membership benefits, and extraordinary dividends.

2. *Differences between dividends and interest.* Generally, dividends are returns on an equity investment (shares); interest is return on a debt investment (deposits). Dividends, in general, are not properly payable until declared at the close of a dividend period; interest, in general, is properly payable daily according to the deposit contract. Dividend rates are prospective until actually declared; interest rates are set according to contract in advance and are earned on that basis. Share accounts establish a member (owner)/credit union (cooperative) relationship; deposit accounts establish a depositor (creditor)/depository (debtor) relationship.

3. *Referencing.* Except where specifically stated otherwise, use of the terms ''dividend'' or ''dividends'' in part 707 also refers to ''interest'' where appropriate (for interest-bearing and non-interest-bearing deposit accounts at some state-chartered credit unions).

(q) Member

1. *Professional capacity.* Examples of accounts held by a natural person in a professional capacity for another are:

i. Attorney-client trust accounts.

ii. Trust, estate and court-ordered accounts.

iii. Landlord-tenant security accounts.

2. *Other accounts.* Examples of accounts *not* held in a professional capacity include accounts held by parents for a child under the Uniform Gifts to Minors Act (or Uniform Transfers to Minors Act.

3. *Retirement plans.* IRAs and SEP accounts are member accounts to the extent that funds are invested in accounts subject to the regulation. Keogh accounts, like sole proprietor accounts, are not subject to the regulation.

(r) Non-Dividend Membership Benefits

1. *General.* Term reflects unique credit union practices that are difficult to value, encourage community spirit, and are not granted in such quantity as to be includable as calculable dividends.

2. *Examples.* Examples include:

i Food, refreshments, and drawings and raffles at annual meetings, member functions, and branch openings.

ii. Travel club benefits.

iii. Prizes offered at annual meetings, such as U.S. Savings Bonds, a deposit of funds into the winner's account, trips, and other gifts. Such prizes are not bonuses because they are offered as an incentive to increase attendance at the annual meeting, and not to entice members to open, maintain, or renew accounts or increase an account balance.

iv. Life savings benefits.

(s) Passbook Account

1. *Relation to Regulation E.* Passbook accounts include accounts accessed by preauthorized electronic fund transfers to the account (as defined in 12 CFR §205.2(j)), such as an account credited by direct share and deposit of social security payments. Accounts that permit access by other electronic means are not ''passbook accounts,'' and any statements that are sent four or more times a year must comply with the requirements of §707.6.

(t) Periodic Statement

1. *General.* Periodic statements are not required by part 707. Passbook and term share accounts are exempt from periodic statement requirements.

2. *Examples.* Periodic statements do not include:

i. Additional statements provided solely upon request.

ii. General service information such as a quarterly newsletter or other correspondence that describes available services and products.

(u) Potential Member

1. *General.* A potential member is a natural person eligible for membership in a credit union, who has not yet taken the steps necessary to become a member. The term also includes natural person nonmembers eligible to hold accounts in a credit union pursuant to relevant federal or state law.

2. *Verification of eligibility.* It is recommended that credit unions have sound written procedures in place to identify those eligible for membership. If these procedures include verification measures, such as an application process, verification telephone call or letter to an employer or association within the field of membership, witnessing by an existing member, or similar procedure, then the credit union may first verify the membership eligibility of a potential member before providing account disclosures or other information to the potential member. This

process of verifying a member's eligibility status, making a recommendation for membership, and providing account disclosures should be completed within 20 calendar days. This period also applies when potential members not on credit union premises request disclosures.

3. *Nonmembers.* Within its sole discretion, the board of directors of a credit union may provide TISA disclosures to nonmembers who are ineligible for membership or to hold an account at the credit union. If disclosures are made to such nonmembers, it is the position of the Board that no civil liability can accrue to the credit union for any errors in such disclosures. (See commentary to §707.3(d)).

(v) State

1. *General.* Territories and possessions include American Samoa, Guam, the Mariana Islands, and the Marshall Islands.

(w) Stepped-Rate Account

1. *General.* Stepped-rate accounts are those accounts in which two or more dividend rates (known at the time the account is opened) will take effect in succeeding periods.

2. *Example.* An example of a stepped-rate account is a one-year term share certificate account in which a 5.00% dividend rate is paid for the first six months, and 5.50% for the second six months.

(x) Term Share Account

1. *Relation to Regulation D.* Regulation D permits, in limited circumstances, the withdrawal of funds without penalty during the first six days after a "time deposit" is opened. (See 12 CFR 204.2(c)(1)(i).) But the fact that a member makes a withdrawal as permitted by Regulation D does not disqualify the account from being a term share account for purposes of this regulation (such as withdrawals upon the death of the member, or within a "grace period" for automatically renewable term share accounts).

2. *Club accounts.* Club accounts, including Christmas club, holiday club, and vacation club accounts may be either term share or regular share accounts, depending on the terms of the account. Although club accounts typically have a maturity date, they are not term share accounts unless they also require a penalty of at least seven days' dividends for withdrawals during the first six days after the account is opened.

(y) Tiered-Rate Account

1. *General.* Tiered-rate accounts are those accounts in which two or more dividend rates are paid on the account and are determined by reference to a specified balance level. Tiered-rate accounts are of two types: Tiering Method A and Tiering Method B. In Tiering Method A accounts, the credit union pays the applicable tiered dividends rate on the entire amount in the account. This method is also known as the "hybrid" or "plateau" tiered-rate account. In Tiering Method B accounts, the credit union does not pay the applicable tiered dividends rate on the entire amount in the account, but only on the portion of the share account balance that falls within each specified tier. This method is also known as the "pure" or "split-rate" tiered-rate account. (See appendix A, part I, D.)

2. *Example.* An example of a tiered-rate account is one in which a credit union pays a 5.00% dividend rate on balances below $1,000, and 5.50% on balances $1,000 and above.

3. *Term share accounts.* Term share accounts that pay different rates based solely on the amount of the initial share and deposit are not tiered-rate accounts.

4. *Minimum balance accounts.* A requirement to maintain a minimum balance to earn dividends does not make an account a tiered-rate account. If dividends are not paid on amounts below a specified balance level, then the account has a minimum balance requirement (required to be disclosed under §707.4(b)(3)(i)), but the account does not constitute a tiered-rate account. A zero rate (0%) cannot constitute a tier. Minimum balance accounts are single rate accounts with a minimum balance requirement.

(z) Variable-Rate Account

1. *General.* Includes accounts in which the credit union does not contract to give at least 30 days advance written notice of decreases in the dividend rate. An account meets this definition whether the rate change is determined by reference to an index, by use of a formula, or merely at the discretion of the credit union's board of directors. An account that permits one or more rate adjustments prior to maturity at the member's option, such as a rate relock option, is a variable-rate account.

2. *Differences between fixed-rate and variable-rate accounts.* All ccounts must either be fixed-rate or variable-rate accounts. Classifying an account as variable-rate affects credit unions three ways:

i. Additional account disclosures are required (§707.4(b)(1)(ii));

ii. Rate decreases are exempted from change-in-terms requirements (§707.5(a)(2)(i)); and

iii. Advertising notice required (§707.8(c)(1)).

Fixed-rate accounts require a contract term obligating the credit union to a 30-day advance, written notice to members before decreasing the dividend rate on the account. Term changes adversely affecting the member and rate decreases cannot take effect until 30 days after such fixed-rate change-in-terms notices are mailed or delivered to members (§707.5(a)).

Section 707.3—General Disclosure Requirements

(a) Form

1. *General.* All required disclosures (e.g., account disclosures, change-in-terms notices, term share renewal/maturity notices, statement disclosures and advertising disclosures) must be made clearly and conspicuously, in a form the member may retain. Disclosures need be made only as applicable (e.g., disclosures for a non-dividend-bearing account would not include disclosure of annual percentage yield, dividend rate, or other disclosures pertaining to dividend calculations).

2. *Design requirements.* Disclosures must be presented in a format that allows members and potential members to readily understand the terms of their account. Credit unions are not required to use a particular type size or typeface, nor are credit unions required to state any term more conspicuously than any other term. Disclosures may be made:

i. In any order.

ii. In combination with other disclosures or account terms.

iii. In combination with disclosures for other types of accounts, as long as it is clear to members and potential members which disclosures apply to their account.

iv. On more than one page and on the front and reverse sides.

v. By using inserts to a document or filling in blanks.

vi. On more than one document, as long as the documents are provided at the same time.

3. *Consistent terminology.* A credit union must use the same terminology to describe terms or features that are required to be disclosed. For example, if a credit union describes a monthly fee (regardless of account activity), as a ''monthly service fee'' in account opening disclosures, the periodic statements and change-in-terms notices must use the same terminology so that members and potential members can readily identify the fee.

(b) General

1. *Terms and conditions.* Credit unions are required to have disclosures reflect the terms of the legal obligation between the credit union and a member at the time the member opens the account. This provision does not impose any contract terms or supersede state or other laws that define how the legal obligations between a credit union and its membership are determined.

2. *Specificity of legal obligation.* Credit unions may refer to the calendar month or to roughly equivalent intervals during a calendar year as a ''month.'' Use of estimates is prohibited in TISA disclosures.

3. *Foreign language.* Disclosures may be made in any foreign language, if desired by the board of directors of a credit union. However, disclosures must also be provided in English, upon request.

(c) Relation to Regulation E

1. *General rule.* Compliance with Regulation E (12 CFR part 205) is deemed to satisfy the disclosure requirements of this regulation, such as when:

i. A credit union changes a term that triggers a notice under Regulation E, and the timing and disclosure rules of Regulation E for sending change-in-terms notices.

ii. A member adds an ATM access feature to an account, and the credit union provides disclosures pursuant to Regulation E, including disclosure of fees before the member receives ATM access. (See 12 CFR 205.7.)

iii. A credit union complying with the timing rules of Regulation E discloses at the same time fees for electronic services (such as balance inquiry fees imposed if the inquiry is made at an ATM) that are required to be disclosed by this regulation, but not by Regulation E.

iv. A credit union relies on Regulation E's rules regarding disclosures of limitations on the frequency and amount of electronic fund transfers, including security-related exceptions. But any limitation on the number of ''intra-institutional transfers'' to or from the member's other accounts at the credit union during a given time period must be disclosed, even though intra-institutional transfers are exempt from Regulation E.

(d) Multiple Members

1. *General.* When an account has multiple natural person member accountholders, delivery of disclosures to any member accountholder or agent authorized by the accountholder satisfies the disclosure requirements of part 707.

(e) Oral Response to Inquiries

1. *Application of rule.* Credit unions need not provide rate information orally. Disclosures need be made only as appropriate. For example, the requirement to give a telephone number for a member to call about rates for interest-bearing accounts and dividend-bearing term share accounts, would not be necessary for members calling the credit union for information. Also, the disclosure requirements are applicable only to credit union employees and volunteers acting in the ordinary course of credit union business.

2. *Relation to advertising.* The advertising rules do not cover an oral response to a question about rates.

3. *Existing accounts.* This paragraph does not apply to oral responses about rate information for existing term share accounts or accounts not currently offered. For example,

if a member holding a one-year term share account requests dividend rate information about the account during the term, the credit union need not disclose the annual percentage yield, unless the member is calling for rate information under a maturity notice.

(f) Rounding and Accuracy Rules for Rates and Yields

(f)(1) Rounding

1. *Permissible rounding.* The annual percentage yield, annual percentage yield earned and dividend rate must be rounded to the nearest one-hundredth of one percentage point (.01%) when disclosed. Examples of permissible rounding are an annual percentage yield calculated to be 5.644%, rounded down and shown as 5.64%; 5.645% would be rounded up and disclosed as 5.65%. For account disclosures, the dividend rate may be expressed to more than two decimal places.

(f)(2) Accuracy

1. *Annual percentage yield and annual percentage yield earned.* The tolerance for annual percentage yield and annual percentage yield earned calculations is designed to accommodate inadvertent errors. Credit unions may not purposely incorporate the one-twentieth of one percentage point (.05%) tolerance into their calculation of yields.

2. *Dividend rate.* There is no tolerance for an inaccuracy in the dividend rate.

Section 707.4—Account Disclosures

(a) Delivery of Account Disclosures

(a)(1) Account Opening

1. *New accounts.* New account disclosures must be provided when:

i. A term share account that does not automatically rollover is renewed by a member.

ii. A member changes the term for a renewable term share account (from a one-year term share account to a six-month term share account, for instance) (see comment 5(b)–5 regarding disclosure alternatives).

iii. A credit union transfers funds from an account to open a new account not at the member's request, unless the credit union previously gave account disclosures and any change-in-terms notices for the new account (e.g., funds in a money market share account are transferred by a credit union to open a new account for the member, such as a share draft account, because the member exceeded transaction limitations on the money market share account).

iv. A credit union accepts a deposit from a member to an account that the credit union had previously deemed to be ''closed,'' under applicable federal or state law, for the purpose of treating accrued, but uncredited, dividends as forfeited dividends. New account numbers are not required by this requirement.

2. *Acquired accounts.* New account disclosures need not be given when a credit union acquires an account through an acquisition of, or merger with, another credit union (but see §707.5(a) regarding advance notice requirements if terms are changed).

3. *Combination disclosures.* New account disclosures need not be given when a member has already received disclosures covering several accounts, and opens a new account properly disclosed by the already received combination disclosures, if the new account is opened within a reasonable amount of time after receipt of the combination disclosures and if the received disclosures and terms are accurate at the time the new account is opened.

(a)(2) Requests

(a)(2)(i)

1. *Inquiries versus requests.* A response to an oral inquiry (by telephone or in person) about rates and yields or fees does not trigger the duty to provide account disclosures. But, when a member asks for written information about an account (whether by telephone, in person, or by other means), the credit union must provide disclosures unless the account is no longer offered to the public.

2. *General requests.* When member's or potential member's request disclosures about a type of account (a share draft account, for example), a credit union that offers several variations may provide disclosures for any one of them. No disclosures need be made to nonmembers, though a credit union may provide disclosures to nonmembers within its sole discretion.

3. *Timing for response.* Ten business days is a reasonable time for responding to requests for account information that members or potential members do not make in person, including requests made by electronic means, such as by electronic mail.

4. *Use of electronic means.* If a member or potential member who is not present at the credit union makes a request for account disclosures, including a request made by telephone, e-mail, or via the credit union's Web site, the credit union may send the disclosures in paper form or, if the member or potential member agrees, may provide the disclosures electronically, such as to an e-mail address that the member or potential member provides for that purpose, or on the credit union's Web site, without regard to the consent or other provisions of the E–Sign Act. The regulation does not require a credit union to provide, nor a member or potential member to agree to receive, the disclosures required by §707.4(a)(2) in electronic form.

(a)(2)(ii)(A)(2)

1. *Recent rates.* Credit unions comply with this paragraph if they disclose an interest rate (or dividend rate on a dividend-bearing term share account) and annual percentage yield accurate within the seven calendar days preceding the date they send the disclosures.

(a)(2)(ii)(B)

1. *Term.* Describing the maturity of a term share account as "1 year" or "6 months," for example, illustrates a response stating the maturity of a term share account as a term rather than a date (e.g., "June 1, 1995").

(b) Content of Account Disclosures

(b)(1) Rate Information

(b)(1)(i) Annual Percentage Yield and Dividend Rate

1. *Rate disclosures.* In addition to the dividend rate and annual percentage yield, credit unions may disclose a periodic rate corresponding to the dividend rate. No other rate or yield (such as "tax effective yield") is permitted. If the annual percentage yield is the same as the dividend rate, credit unions may disclose a single figure but must use both terms.

2. *Fixed-rate accounts.* For fixed-rate term share accounts paying the opening rate until maturity, credit unions may disclose the period of time the dividend rate will be in effect by stating, or cross-referencing, the maturity date. For other fixed-rate accounts, credit unions may use a date (such as "This rate will be in effect through June 30, 1995") or a period (such as "This rate will be in effect for at least 30 days").

3. *Tiered-rate accounts.* Each dividend rate, along with the corresponding annual percentage yield for each specified balance level (or range of annual percentage yields, if appropriate), must be disclosed for tiered-rate accounts. (See appendix A, Part I, Paragraph D.)

4. *Stepped-rate accounts.* A single composite annual percentage yield must be disclosed for stepped-rate accounts. (See appendix A, Part I, Paragraph B.) The dividend rates and the period of time each will be in effect also must be provided. When the initial rate offered for a specified time on a variable-rate account is higher or lower than the rate that would otherwise be paid on the account, the calculation of the annual percentage yield must be made as if for a stepped-rate account. (See appendix A, Part I, Paragraph C.)

5. *Minimum balance accounts.* If a credit union sets a minimum balance to earn dividends, the credit union may, but need not, state that the annual percentage yield is 0% for those days the balance in the account drops below the minimum balance level when using the daily balance method. Nor is a disclosure of 0% required for credit unions using the average daily balance method, if the member fails to meet the minimum balance required for the average daily balance period.

(b)(1)(ii) Variable Rates

(b)(1)(ii)(B)

1. *Determining dividend rates.* To disclose how the dividend rate is determined, credit unions must:

i. Identify the index and specific margin, if the dividend rate is tied to an index.

ii. State that rate changes are within the credit union's discretion, if the credit union does not tie changes to an index.

(b)(1)(ii)(C)

1. *Frequency of rate changes.* A credit union reserving the right to change rates at its discretion must state the fact that rates may change at any time.

(b)(1)(ii)(D)

1. *Limitations.* A floor or ceiling on rates or on the amount the rate may decrease or increase during any time period must be disclosed. Credit unions need not disclose the absence of limitations on rate changes.

(b)(2) Compounding and Crediting

(b)(2)(i) Frequency

1. *General.* Descriptions such as "quarterly" or "monthly" are sufficient. Irregular crediting and compounding periods, such as if a cycle is out short at year end for tax reporting purposes, need not be disclosed.

2. *Dividend period.* For dividend-bearing accounts, the dividend period must be disclosed. (A specific example must also be given, see appendix B, § B–1(c).) The dividend period for term share accounts generally may be disclosed as the account's term (e.g., two years).

(b)(2)(ii) Effect of Closing an Account

1. *Deeming an account closed.* A credit union may, subject to state or other law, provide in account contracts the actions by members that will be treated as closing the account and that will result in the forfeiture of accrued but uncredited dividends. An example is the withdrawal of all funds from the account prior to the date dividends are credited. Credit unions are cautioned that bylaw requirements may prevent a credit union from deeming a member's account closed until certain time periods are extinguished if funds remain in a member's account. *NCUA Standard FCU Bylaws,* Art. III, §3. Such bylaw requirements may not be overridden without proper agency approval.

(b)(3) Balance Information

(b)(3)(i) Minimum Balance Requirements

1. *Par value.* Credit unions must disclose any minimum balance required to open the account, to avoid the imposition of a fee, or to obtain the annual percentage yield. Since members cannot generally maintain any accounts until the par value of the membership share is paid in full, this section requires that credit unions disclose the par value of a share necessary to become a member and maintain accounts at the credit union. The par value of a share and the minimum balance requirement do not have to be the same amount (e.g., a credit union may have a $5 par value for a membership share, in order for accounts to be opened and maintained, and a $100 minimum balance requirement, in order for the account to earn dividends).

2. *Disclosures.* The explanation of minimum balance computation methods may be combined with the balance computation method disclosures (§707.4(b)(3)(ii)) if they are the same. If a credit union uses different cycles for determining minimum balance requirements for purposes of assessing fees and for paying dividends, the credit union must disclose the specific cycle or time period used for each purpose (e.g., use of a midmonth statement cycle for determining dividends, and use of a calendar month cycle for determining fees). Credit unions may assess fees by using any method. If fees on one account are tied to the balance in another account, such provision must be explained (e.g., if share draft fees are tied to a minimum balance in the regular share account (or a combination of the share draft and regular share accounts), the share draft account must explain that fact and how the balance in the regular share account (or both accounts) is determined). The fee need not be disclosed in the account disclosures if the fee is not imposed on that account.

(b)(3)(ii) Balance Computation Method

1. *Methods and periods.* Credit unions may use different methods or periods to calculate minimum balances for purposes of imposing a fee (the daily balance for a calendar month, for example) and accruing dividends (the average daily balance for a statement period, for example). Each method and corresponding period must be disclosed.

(b)(3)(iii) When dividends begin to accrue

1. *Additional information.* Credit unions must include a statement as to when dividends begin to accrue for noncash deposits. Credit unions may disclose additional information such as the time of day after which deposits are treated as having been received the following business day, and may use additional descriptive terms such as ''ledger'' or ''collected'' balances to disclose when dividends begin to accrue. Under the ledger balance method, dividends begin to accrue on the day of deposit. Under the collected balance methods, dividends begin to accrue when provisional credit is received for the item deposited.

(b)(4) Fees

1. *Types of fees.* Fees related to the routine use of an account must be disclosed. The following are types of fees that must be disclosed in connection with an account:

i. Maintenance fees, such as monthly service fees.

ii. Fees related to share deposits or withdrawals.

iii. Fees for special services, such as stop payment fees, fees for balance inquiries or verification of share and deposits, fees associated with checks returned unpaid, fees for regularly sending to members share drafts that otherwise would be held by the credit union, and overdraft line of credit access fees (if charged against the share account).

iv. Fees to open or to close an account.

v. Fees imposed upon dormant or inactive accounts.

2. *Other fees.* Credit unions need not disclose fees such as the following:

i. Fees for services offered to members and nonmembers alike, such as fees for certain travelers checks, for wire transfers and automated clearinghouse (ACH) transfers, to process credit card cash advances, or to handle U.S. Savings Bond Redemption (even if different amounts are charged to members and nonmembers).

ii. Incidental fees, such as fees associated with state escheat laws, garnishment or attorneys fees, to change names on an account, to generate a midcycle periodic statement, to wrap loose coins, for photocopying, for statements returned to the credit union because of a wrong address, and locator fees.

3. *Amount of fees.* Credit unions are cautioned that merely providing fee information in an account disclosure may not be sufficient to gain the legal right to impose the fee involved under applicable law. Credit unions must state the amount and conditions under which a fee may be imposed. Naming and describing the fee typically satisfies this requirement. Some examples are:

i. ''$4.00 monthly service fee''.

ii. $7.00 and up'' or ''fee depends on style of checks ordered'' for check printing fees.

4. *Tied-accounts.* Credit unions must state if fees that may be assessed against an account are tied to other accounts at the credit union. For example, if a credit union ties the fees payable on a share draft account to balances held in the share draft account and in a regular share account, the share draft account disclosures must state that fact and explain how the fee is determined.

5. *Regulation E statements.* Some fees are required to be disclosed under both Regulation

E (12 CFR 205.7) and part 707. If such fees, such as ATM transaction fees, are disclosed on a Regulation E statement, they need not be disclosed again on a periodic statement required under part 707.

6. *Fees for overdrawing an account.* Under §707.4(b)(4) of this part, credit unions must disclose the conditions under which a fee may be imposed. In satisfying this requirement credit unions must specify the categories of transactions for which an overdraft fee may be imposed. An exhaustive list of transactions is not required. It is sufficient for a credit union to state that the fee applies to overdrafts ''created by check, in-person withdrawal, ATM withdrawal, or other electronic means.'' Disclosing a fee ''for overdraft items'' would not be sufficient.

(b)(5) Transaction Limitations

1. *General rule.* Examples of limitations on the number of dollar amount of share deposits or withdrawals that credit unions must disclose are:

i. Limits on the number of share drafts or checks that may be written on an account for a given time period.

ii. Limits on withdrawals or share deposits during the term of a term share account.

iii. Limitations required by Regulation D, such as the number of withdrawals permitted from money market share accounts by check to third parties each month (credit unions need not disclose reservation of right to require a notice for withdrawals from accounts required by federal or state law).

(b)(6) Features of Term Share Accounts

(b)(6)(i) Time Requirements

1. *''Callable'' term share accounts.* In addition to the maturity date, credit unions must state the date or the circumstances under which the credit union may redeem a term share account at the credit union's option (a ''callable'' term share account).

(b)(6)(ii) Early Withdrawal Penalties

1. *General.* The term ''penalty'' may, but need not, be used to describe the loss that may be incurred by members for early withdrawal of funds from term share accounts.

2. *Examples.* Examples of early withdrawal penalties are:

i. Monetary penalties, such a specific dollar amount (e.g., ''$10.00'') or a specific days' worth of dividends (e.g., ''seven days' dividends plus accrued but uncredited dividends, but only if the account is closed'').

ii. Adverse changes to terms such as the lowering of the dividend rate, annual percentage yield, or reducing the compounding or crediting frequency for funds remaining in shares or on deposit.

iii. Reclamation of bonuses.

3. *Relation to rules for IRAs or similar plans.* Penalties imposed by the Internal Revenue Code for certain withdrawals from IRAs or similar pension or savings plans are not early withdrawal penalties for purposes of this regulation.

4. *Disclosing penalties.* Penalties may be stated in months, whether credit unions assess the penalty using the actual number of days during the period or using another method such as a number of days that occurs in any actual sequence of the total calendar months involved. For example, stating ''one month's dividends'' is permissible, whether the credit union assesses 30 days' dividends during the month of April, or selects a time period between 28 and 31 days for calculating the dividends for all early withdrawals regardless of when the penalty is assessed.

(b)(6)(iv) Renewal Policies

1. *Rollover term share accounts.* Credit unions are not required to provide a grace period, to pay dividends during the grace period, or to disclose whether or not dividends will be paid during the grace period. Credit unions offering a grace period on term share accounts must give the length of the grace period. Commentary, appendix B, Model Clauses, §B–1(i)(iv).

2. *Nonrollover term share accounts.* Credit unions that pay dividends on funds following the maturity of term share accounts that do not renew automatically need not state the rate (or annual percentage yield) that may be paid.

(b)(7) Bonuses

1. *General.* Credit unions are required to state the amount and type of bonus, and disclose any minimum balance or time requirement to obtain the bonus and when the bonus will be provided. If the minimum balance or time requirement is otherwise required to be disclosed, credit unions need not duplicate the disclosure for purposes of this paragraph.

(b)(8) Nature of Dividends

1. *General.* Dividends are not payable until declared and unless sufficient current and undivided earnings are available after required transfers to reserves at the close of a dividend period. A disclosure explaining dividends educates members and protects credit unions in the event that a prospective dividend cannot be paid, or is not properly payable. This disclosure is required for all dividend-bearing share accounts. Term share accounts need not include a statement regarding the nature of dividends.

2. *State-chartered credit unions with interest-bearing deposit accounts.* State law controls the nature of accounts (i.e., whether an account is a share account or a deposit account). If a member of a state-chartered

credit union is opening only an interest-bearing deposit account, or is requesting account disclosures only for an interest-bearing deposit account (if state law requires the depositor to hold a share account), the disclosures must generally include the following information on any dividend-bearing share portion of the account (e.g., membership share): the par value of a share; a statement that the portion of the deposit that represents the par value of the membership share will earn dividends, and that dividends are paid from current income and available earnings after required transfers to reserves. Further additional disclosures, such as a separate dividend rate and annual percentage yield for the membership share, are not required (if the additional disclosures would agree with the remainder of the account which is invested in an interest-bearing deposit).

(c) Notice to Existing Accountholders

1. *General.* Only members who receive periodic statements (provided regularly at least four times per year) and who hold accounts of the type offered by the credit union as of the compliance date of part 707 (generally January 1, 1995) must receive the notice. If following receipt of the notice members request disclosures, credit unions have twenty calendar days from receipt of the request to provide the disclosures. Rate and annual percentage yield information in such disclosures must conform to that required for disclosures upon request. As an alternative to including the notice in or on the periodic statement, the final rule permits credit unions to send the account disclosures themselves, as long as they are sent at the same time as the periodic statement (the disclosures may be mailed either with the periodic statement or separately).

2. *Form of the notice.* The notice may be included on the periodic statement, in a member newsletter, or on a statement stuffer or other insert, if it is clear and conspicuous. The notice cannot be sent in a separate mailing from the periodic statement.

3. *Timing.* The notice may accompany the first periodic statement after the compliance date for part 707, or the periodic statement for the first cycle beginning after that date. For example, a credit union's statement cycle is December 15, 1994-January 14, 1995. The statement is mailed on January 15, The next cycle is January 15, 1995 through February 14, 1995, and the statement for that cycle is mailed on February 15. The credit union may provide the notice either on or with the January 15 statement or on or with the February 15 statement, as it covers the first cycle after January 1, 1995.

4. *Early compliance.* Credit unions that provide the notice to existing members prior to the compliance date of part 707, must be prepared to provide accurate and timely disclosures when, following receipt of the notice, members ask for account disclosures. Such disclosures must be provided even if they are requested before the compliance date of part 707. Credit unions who provide early notice to existing members need to comply with other aspects of part 707, but need not provide disclosures already provided in compliance with part 707.

Section 707.5—Subsequent Disclosures

(a) Change in Terms

(a)(1) Advance Notice required

1. *Form of notice.* Credit unions may provide a change-in-term notice on or with a regular periodic statement or in another mailing (such as a highlighted portion of a newsletter or statement stuffer insert). If a credit union provides notice through revised account disclosures, the changed term must be highlighted in some manner. For example, credit unions may state that a particular fee has been changed (also specifying the new amount) or use an accompanying letter that refers to the changed term. Credit unions are cautioned that unless credit unions have reserved the right to change terms in the account agreement or disclosures, a change-in-terms notice may not be sufficient to amend the terms under applicable law.

2. *Effective date.* An example of a language for disclosing the effective date of a change is: ''As of May 11, 1995''.

3. *Terms that change upon the occurrence of an event.* A credit union offering terms that will automatically change upon the occurrence of a stated event need not send an advance notice of the change provided the credit union fully describes the conditions of the change in the account opening disclosures (and sends any change-in-term notices regardless of whether the changed term affects that member's account at that time).

4. *Examples.* Examples of changes not requiring an advance change-in-terms notice are:

i. The termination of employment for employee-members for whom account maintenance or activity fees were waived during their employment by the credit union.

ii. The expiration of one year in a promotion described in the account opening disclosures to ''waive $4.00 monthly service charges for one year''.

(a)(2) No Notice Required

(a)(2)(ii) Check Printing Fees

1. *Increase in fees.* A notice is not required for an increase in fees for printing share drafts (or deposit and withdrawal slips) even if the credit union adds some amount to the price charged by the vendor.

(b) Notice Before Maturity for Term Share Accounts Longer Than One Month That Renew Automatically.

1. *Maturity dates on nonbusiness days.* In determining the term of a term share account, credit unions may disregard the fact that the term will be extended beyond the disclosed number of days if the maturity date falls on a nonbusiness day. For example, a holiday or weekend may cause a ''one-year'' term share account to extend beyond 365 days (or 366, in a leap year), or a ''one-month'' term share account to extend beyond 31 days.

2. *Disclosing when rates will be determined.* Ways to disclose when the annual percentage yield will be available include the use of:

i. A specific date, such as ''October 28''.

ii. A date that is easily discernible, such as ''the Tuesday prior to the maturity date stated on the notice'' or ''as of the maturity date stated on this notice''.

3. *Alternative timing rule.* Under the alternative timing rule, a credit union that offers a 10-day grace period would have to provide the disclosures at least 10 calendar days prior to the scheduled maturity date.

4. *Club accounts.* If members have agreed to the transfer of payments from another account to a club term share account for the next club period, the credit union must comply with the requirements for automatically renewable term share accounts—even though members may withdraw funds from the club account at the end of the current club period.

5. *Renewal of a term share account.* In the case of a change-in-terms that becomes effective if a rollover term share account is subsequently renewed:

i. If the change is initiated by the credit union, the disclosure requirements of this paragraph apply. (Section 707.5(a) applies if the change becomes effective prior to the maturity of the existing term share account.)

ii. If the change is initiated by the member, the account opening disclosure requirements of §707.4(b) apply. (If the notice required by this paragraph has been provided, credit unions may give new account disclosures or disclosures that reflect the new term.)

6. *Example.* If a member receives a notice prior to maturity on a one-year term share account and requests a rollover to a six-month account, the credit union must provide either account opening disclosures including the new maturity date or, if all other terms previously disclosed in the prematurity notice remain the same, only the new maturity date.

(b)(1) Maturities of Longer Than One Year

1. *Highlighting changed terms.* Credit unions need not highlight terms that have changed since the last account disclosures were provided.

(c) Notice Before Maturity for Term Share Accounts Longer Than One Year That Do not Renew Automatically

1. *Subsequent account.* When funds are transferred following maturity of a nonrollover term share account, credit unions need not provide account disclosures unless a new account is established.

Section 707.6—Periodic Statement Disclosures

(a) Rule When Statement and Crediting Periods Vary

1. *General.* Credit unions are not required to provide periodic statements. If they provide periodic statements, disclosures need only be furnished to the extent applicable. For example, if no dividends are earned for a statement period, credit unions need not state that fact. Or, credit unions may disclose ''$0'' dividends earned and ''0%'' annual percentage yield earned.

2. *Regulation E interim statements.* When a credit union provides regular quarterly statements, and in addition provides a monthly interim statement to comply with Regulation E, the interim statement need not comply with this section unless it states dividend or rate information. (See 12 CFR 205.9). For credit unions that choose not to treat Regulation E activity statements as part 707 periodic statements, the quarterly periodic statement must reflect the annual percentage yield earned and dividends earned for the full quarter. However, credit unions choosing this option need not redisclose fees already disclosed on an interim Regulation E activity statement on the quarterly periodic statement. For credit unions that choose to treat Regulation E activity statements as part 707 periodic statements, the Regulation E statement must meet all part 707 requirements.

3. *Combined statements.* Credit unions may provide certain information about an account (such as a money market share account or regular share account) on the periodic statement for another account (such as a share draft account) without triggering the disclosures required by this section, as long as:

i. The information is limited to information such as the account number, the type of account, balance information, accountholders' names, and social security or tax identification number; and

ii. The credit union also provides members a periodic statement complying with this section for the account (the money market share account or regular share account, in the example).

4. *Other information.* Additional information that may be given on or with a periodic statement, includes:

i. Dividend rates and corresponding periodic rates to the dividend rate applied to balances during the statement period.

ii. The dollar amount of dividends earned year-to-date.

iii. Bonuses paid (or any *de minimis* consideration of $10 or less).

iv. Fees for other products, such as safe deposit boxes.

v. Accounts not covered by the periodic statement disclosure requirements (passbook and term share accounts) may disclose any information on the statement related to such accounts, so long as such information is accurate and not misleading.

5. *When statement and crediting periods vary.* This rule permits credit unions, on dividend-bearing share accounts, to report the annual percentage yield earned and the amount of dividends earned on a statement other than on each periodic statement when the dividend period does not agree with, varies from, or is different than, the statement period. For dividend-bearing share accounts, credit unions may disclose the required information either upon each periodic statement, or on the statement on which dividends are actually earned (credited or posted) to the member's account. In addition, for accounts using the average daily balance method of calculating dividends, when the average daily balance period and the statement periods do not agree, vary or are different, credit unions may also report annual percentage yield earned and the dollar amount of dividends earned on the periodic statement on which the dividends or interest is earned. For example, if a credit union has quarterly dividend periods, or uses a quarterly average daily balance on an account, the first two monthly statements may not state annual percentage yield earned and dividends earned figures; the third "monthly" statement will reflect the dividends earned and the annual percentage yield earned for the entire quarter. The fees imposed disclosure must be given on the periodic statement on which they are imposed.

6. *Length of the period.* Credit unions must disclose the length of both the dividend period (or average daily balance calculation period) and the statement period. For example, a statement could disclose a statement period of April 16 through May 15 and further state that "the dividends earned and the annual percentage yield earned are based on your dividend period (or average daily balance) for the period April 1 through April 30."

7. *Dividend period more frequent than statement period.* Credit unions that calculate dividends on a monthly basis, but send statements on a quarterly basis, may disclose a single dividend (and annual percentage yield earned) figure. Alternatively, a credit union may disclose three dividends earned and three annual percentage yield earned figures, one of each month in the quarter, as long as the credit union states the number of days (or beginning and ending date) in each dividend period if it varies from the statement period.

8. *Additional voluntary disclosures.* For credit unions not disclosing the annual percentage yield earned and dividends earned on all periodic statements, credit unions may place a notice on statements without dividends and annual percentage yield earned figures, that the annual percentage yield earned and dollar amount of dividends earned will appear on the first statement at the close of the dividend (or average daily balance) period, or similar wording. Credit unions may also choose to include a telephone number to call for interim information, if desired by a member.

(b) Statement Disclosures

(b)(1) Annual Percentage Yield Earned

1. *Ledger and collected balances.* Credit unions that accrue interest using the collected balance method may use either the ledger or collected balance methods to determine the balance used to determine the annual percentage yield earned. Ledger balance means the record of the balance in a member's account, as per the credit union's records. (The ledger balance may reflect additions and deposits for which the credit union has not yet received final payment). Collected balance means the record of balance in a member's account reflecting collected funds, that is, cash or checks deposited in the credit union which have been presented for payment and for which payment has actually been received. (See Regulation CC, 12 CFR 229.14).

(b)(2) Amount of Dividends or Interest

1. *Definition of earned.* The term "earned" is defined to include dividends and interest either "accrued" or "paid and credited." Credit unions may use either the "ledger" or the "collected" balance for either option. (See 707.6(b)(1)1. and 707.7(c)2. of this appendix.)

2. *Accrued interest.* Credit unions must state the amount of interest that accrued during the statement period, even if it was not credited.

3. *Terminology.* In disclosing dividends earned for the period, credit unions must use the term "dividends" or terminology such as: "Dividends paid," to describe dividends that have been credited; "Dividends accrued," to indicate that dividends are not yet credited.

4. *Closed accounts.* If a member closes an account between crediting periods and forfeits accrued dividends, the credit union may

not show any figures for "dividends earned" or annual percentage yield earned for the period (other than zero, at the credit union's option).

5. *Extraordinary dividends.* Extraordinary dividends are not a component of the annual percentage yield earned or the dividend rate, but are an addition to the member's account. The dollar amount of the extraordinary dividends paid, denoted as a separate, identified figure, must be disclosed on the periodic statement on which the extraordinary dividends are earned. A credit union may also disclose information regarding the calculation of the extraordinary dividends, and additional annual percentage yield earned and dividend rate figures taking into account the extraordinary dividend, so long as such information is accurate and not misleading.

(b)(3) Fees Imposed

1. *General.* Periodic statements must state fees disclosed under §707.4(b) that were debited to the account during the statement period, even if assessed for an earlier period.

2. *Itemizing fees by type.* In itemizing fees imposed more than once in the period, credit unions may group fees if they are the same type. See §707.11(a)(1) of this part regarding certain fees that must be grouped when a credit union promotes the payment of overdrafts. When fees of the same type are grouped together, the description must make clear that the dollar figure represents more than a single fee, for example, "total fees for checks written this period." Examples of fees that may not be grouped together are—

i. Monthly maintenance and excess-activity fees.

ii. "Transfer" fees, if different dollar amounts are imposed, such as $.50 for deposits and $1.00 for withdrawals.

iii. Fees for electronic fund transfers and fees for other services, such as balance-inquiry or maintenance fees.

iv. Fees for paying overdrafts and fees for returning checks or other items unpaid.

3. *Identifying fees.* Statement details must enable the member to identify the specific fee. For example:

i. Credit unions may use a code to identify a particular fee if the code is explained on the periodic statement or in documents accompanying the statement.

ii. Credit unions using debit slips may disclose the date the fee was debited on the periodic statement and show the amount and type of fee on the dated debit slip.

4. *Relation to Regulation E.* Disclosure of fees in compliance with Regulation E complies with this section for fees related to electronic fund transfers (for example, totaling all electronic funds transfer fees in a single figure).

(b)(4) Length of Period

1. *General.* Credit unions providing the beginning and ending dates of the period must make clear whether both dates are included in the period. For example, stating "April 1 through April 30" would clearly indicate that both April 1 and April 30 are included in the period.

2. *Opening or closing an account mid-cycle.* If an account is opened or closed during the period for which a statement is sent, credit unions must calculate the annual percentage yield earned based on account balances for each day the account was open.

Section 707.7—Payment of Dividends

(a) Permissible Methods

1. *Prohibited calculation methods.* Calculation methods that do not comply with the requirement to pay dividends on the full amount of principal in the account each day include:

i. The "rollback" method, also known as the "grace period" or "in by the 10th" method, where credit unions pay dividends on the lowest balance in the account for the period.

ii. The "increments of par value" method, where credit unions only pay dividends on full shares in an account, e.g., a credit union with $5 par value shares pays dividends on $20 of a $24 account balance.

iii. The "ending balance" method, where credit unions pay dividends on the balance in the account at the end of the period.

iv. The "investable balance" method, where credit unions pay dividends on a percentage of the balance, excluding an amount credit unions set aside for reserve requirements.

v. The "low balance" method, where credit unions pay dividends on the lowest balance in the account for any day in that period.

2. *Use of 365-day basis.* Credit unions may apply a daily periodic rate that is greater than $1/365$ of the dividend rate—such as $1/360$ of the dividend rate—as long as it is applied 365 days a year.

3. *Periodic dividend payments.* A credit union can pay dividends each day on the account and still make uniform dividend payments. For example, for a one-year term share account, a credit union could make monthly dividend payments that are equal to $1/12$ of the amount of dividends that will be earned for a 365-day period (or 11 uniform monthly payments—each equal to roughly $1/12$ of the total amount of dividends—and one payment that accounts to the remainder of the total amount of dividends earned for the period).

4. *Leap year.* Credit unions may apply a daily rate of $1/366$ or $1/365$ of the dividend rate for 366 days in a leap year, if the account will earn dividends for February 29.

5. *Maturity of term share accounts.* Credit unions are not required to pay dividends after term share accounts mature. Examples include:

i. During any grace period offered by a credit union for an automatically renewable term share account, if the member decides during that period not to renew the account.

ii. Following the maturity of nonrollover term share accounts.

iii. When the maturity date falls on a holiday, and the member must wait until the next business day to obtain the funds.

6. *Dormant accounts.* Credit unions must pay dividends on funds in an account, even if inactivity or the infrequency of transactions would permit the credit union to consider the account to be ''inactive'' or ''dormant'' (or similar status) as defined by state or other law or the account contract.

7. *Insufficient funds.* Credit unions are not required to pay dividends on checks or share drafts deposited to a member's account that are returned for insufficient funds. If a credit union accrues dividends on a check that it later determines is not good, it may deduct from the accrued dividends any dividends attributed to the proceeds of the returned check. If dividends have already been credited before the credit union determines the item has insufficient funds, the credit union may deduct the amount of the check and associated dividends from the account balance. The amount deducted will not be reflected in the dividend amount and annual percentage yield earned reported for the next period.

8. *Account drawn below par value of a share.* If a member draws his or her account below the par value of a share, dividends would continue to accrue on the account so long as any minimum balance requirement is met. However, under the *NCUA Standard FCU Bylaws*, if a member who reduces his or her share balance below the value of a par value share and does not increase the balance within at least six months, the credit union may terminate the member's membership. State-chartered credit unions may have similar termination provisions.

(a)(2) Determination of Minimum Balance To Earn Dividends

1. *General.* Credit unions may set minimum balance requirements that must be met in order to earn dividends. However, credit unions must use the same method to determine a minimum balance required to earn dividends as they use to determine the balance upon which dividends will accrue and pay. For example, a credit union that calculates dividends on the daily balance method must use the daily balance method to determine if the minimum balance to earn dividends has been met. Similarly, a credit union that calculates dividends on the average daily balance method must use the average daily balance method to determine if the minimum to earn dividends has been met. Credit unions may have a par value of a share that is different from the minimum balance requirement to earn dividends. (See commentary to §707.4(b)(3)(i)).

2. *Daily balance accounts.* Credit unions that require a minimum balance to earn dividends may choose not to pay dividends for days when the balance drops below the required minimum balance if they use the daily balance method to calculate dividends. For example, a credit union could set a minimum daily balance level of $200 and pay dividends only those days the $200 daily balance is maintained.

3. *Average daily balance accounts.* Credit unions that require a minimum balance to earn dividends may choose not to pay dividends for the average daily balance calculation period in which the average daily balance drops below the required minimum, if they use the average daily balance method to calculate dividends. For example, a credit union could set a minimum average daily balance level of $200 and pay dividends only if the $200 average daily balance is met for the calculation period.

4. *Beneficial method.* Credit unions may not require members to maintain both a minimum daily balance and a minimum average daily balance to earn dividends, such as by requiring the member to maintain a $500 daily balance and a prescribed average daily balance (whether higher or lower). But a credit union could offer a minimum balance to earn dividends that includes an additional method that is ''unequivocally beneficial'' to the member such as the following:

i. A credit union using the daily balance method to calculate dividends and requiring a $500 minimum daily balance could choose to pay dividends on the account (for those days the minimum balance is not met) as long as the member maintained an average daily balance throughout the month of $400.

ii. A credit union using the average daily balance method to calculate dividends and requiring a $400 minimum average daily balance could choose to pay dividends on the account as long as the member maintained a daily balance of $500 for at least half of the days in the period.

iii. A credit union using either the daily balance method or average daily balance method to calculate dividends that requires: (A) a $500 daily balance; or (B) a $400 average daily balance to pay dividends on the account.

5. *Paying on full balance.* Credit unions must pay dividends on the full balance in the account that meets the required minimum balance. For example, if $300 is the minimum daily balance required to earn dividends, and a member deposits $500, the credit union must pay the stated dividend rate on the full $500 and not just on the $200.

6. *Negative balances prohibited.* Credit unions must treat a negative account balance as zero to determine:

i. The daily or average daily balance on which dividends will be paid.

ii. Whether any minimum balance to earn dividends is met. (See commentary to appendix A, Part II, which prohibits credit unions from using negative balances in calculating the dividends figure for the annual percentage yield earned.)

7. *Club accounts.* Credit unions offering club accounts (such as a ''holiday'' or ''vacation'' club accounts) cannot impose a minimum balance requirement for dividends based on the total number or dollar amount of payments required under the club plan. For example, if a plan calls for $10 weekly payments for 50 weeks, the credit union cannot set a $500 minimum balance and then pay only if the member makes all 50 payments.

8. *Minimum balances not affecting dividends.* Credit unions may use the daily balance, average daily balance, or other computation method to calculate minimum balance requirements not involving the payment of dividends—such as to compute minimum balances for assessing fees.

(b) Compounding and Crediting Policies

1. *General.* Credit unions choosing to compound dividends may compound or credit dividends annually, semi-annually, quarterly, monthly, daily, continuously, or on any other basis.

2. *Withdrawals prior to crediting date.* If members withdraw funds (without closing the account), prior to a scheduled crediting date, credit unions may delay paying the accrued dividends on the withdrawn amount until the scheduled crediting date, but may not avoid paying dividends.

3. *Closed accounts.* Subject to state or other law, a credit union may choose not to pay accrued dividends if members close an account prior to the date accrued dividends are credited, as long as the credit union has disclosed that fact. If accrued dividends are paid, accrued dividends must be paid on funds up until the account is closed or the account is deemed closed. For example, if an account is closed on a Tuesday, accrued dividends on the funds through Monday would be paid. Whether (and the conditions under which) credit unions are permitted to deem an account closed by a member is determined by state or other law, if any. Credit unions are cautioned that bylaw requirements may prevent a credit union from deeming a member's account closed until certain time periods are extinguished. (See *NCUA Standard FCU Bylaws*, Art. III, §3. Such bylaw requirements may not be overridden without proper agency approval.)

(c) Date Dividends Begin To Accrue

1. *Relation to Regulation CC.* Credit unions may rely on the Expedited Funds Availability Act (EFAA) and Regulation CC (12 CFR part 229) to determine, for example, when a deposit is considered made for purposes of dividend accrual, or when dividends need not be paid on funds because a deposited check is later returned unpaid.

2. *Ledger and collected balances.* Credit unions may calculate dividends by using a ''ledger'' balance or ''collected'' balance method, as long as the crediting requirements of the EFAA are met (12 CFR 229.14).

3. *Withdrawal of principal.* Credit unions must accrue dividends on funds until the funds are withdrawn from the account. For example, if a check is debited to an account on a Tuesday, the credit union must accrue dividends on those funds through Monday.

Section 707.8—Advertising

(a) Misleading or Inaccurate Advertisements

1. *General.* All advertisements are subject to the rule against misleading or inaccurate advertisements, even though the disclosure applicable to various media differ. The word ''profit'' may be used when referring to dividend-bearing share accounts, as it reflects the nature of dividends. The word ''profit'' may not be used when referring to interest-bearing deposit accounts.

2. *Indoor signs.* An indoor sign advertising an annual percentage yield is not misleading or inaccurate if:

i. For a tiered-rate account, it also provides the upper and lower dollar amounts of the tier corresponding to the advertised annual percentage yield.

ii. For a term share account, it also provides the term required to obtain the advertised annual percentage yield.

3. *''Free'' or ''no cost'' accounts.* For purposes of determining whether an account can be advertised as ''free'' or ''no cost,'' maintenance and activity fees include:

i. Any fee imposed if a minimum balance requirement is not met, or if the member exceeds a specified number of transactions.

ii. Transaction and service fees that members reasonably expect to be imposed on an account on a regular basis (see comments 4(b)(4)–1 and 2).

iii. A flat fee, such as a monthly service fee.

iv. Fees imposed to deposit, withdraw or transfer funds, including per-check or per-transaction charges (for example, $.25 for each withdrawal, whether by check, in person).

4. *Other fees.* Examples of fees that are *not* maintenance or activity fees include:

i. Fees that are not required to be disclosed under §707.4(b)(4).

ii. Check printing fees of any type.

iii. Fees for obtaining copies of checks, whether or not the original checks have been truncated or returned to the member periodically.

iv. Balance inquiry fees.

v. Fees assessed against a dormant account.

vi. Fees for using an ATM.

vii. Fees for electronic transfer services that are not required to obtain an account, such as preauthorized transfers or home electronic credit union services.

viii. Stop payment fees and fees for share drafts or checks returned unpaid.

5. *Similar terms.* An advertisement may not use a term such as ''fees waived'' if a maintenance or activity fee may be imposed because it is similar to the terms ''free'' or ''no cost.''

6. *Specific account services.* Credit unions may advertise a specific account service or feature as free as long as no fee is imposed for that service or feature. For example, credit unions offering an account that is free of deposit or withdrawal fees could advertise that fact, as long as the advertisement does not mislead members by implying that the account is free and that no other fee (a monthly service fee, for example) may be charged.

7. *Free for limited time.* If an account (or a specific account service) is free only for a limited period of time—for example, for one year following the account opening—the account (or service) may be advertised as free as long as the time period is stated.

8. *Conditions not related to share accounts.* Credit unions may advertise accounts as ''free'' for members that meet conditions not related to share accounts, such as the member's age. For example, credit unions may advertise a share draft account as ''free for persons over 65 years old,'' even though a maintenance or activity fee may be assessed on accounts held by members that are 65 or younger.

9. *Electronic advertising.* If an electronic advertisement, such as an advertisement appearing on an internet Web site, displays a triggering term, such as a bonus or annual percentage yield, the advertisement must clearly refer the member to the location where the additional required information begins. For example, an advertisement that includes a bonus or annual percentage yield may be accompanied by a link that directly takes the member to the additional information.

10. *Examples.* Examples of advertisements that would ordinarily be misleading, inaccurate, or misrepresent the deposit contract are:

i. Representing an overdraft service as a ''line of credit,'' unless the service is subject to 12 CFR part 226 (Regulation Z).

ii. Representing that the credit union will honor all checks or authorize payment of all transactions that overdraw an account, with or without a specified dollar limit, when the credit union retains discretion at any time not to honor checks or authorize transactions.

iii. Representing that members with an overdrawn account can maintain a negative balance when the terms of the account's overdraft service require members promptly to return the share account to a positive balance.

iv. Describing a credit union's overdraft service solely as protection against bounced checks when the credit union also permits overdrafts for a fee for overdrawing their accounts by other means, such as ATM withdrawals, debit card transactions, or other electronic fund transfers.

v. Advertising an account-related service for which the credit union charges a fee in an advertisement that also uses the word ''free'' or ''no cost'' or a similar term to describe the account, unless the advertisement clearly and conspicuously indicates that there is a cost associated with the service. If the fee is a maintenance or activity fee under §707.8(a)(2) of this part, however, an advertisement may not describe the account as ''free'' or ''no cost'' or contain a similar term even if the fee is disclosed in the advertisement.

11. *Additional disclosures in connection with the payment of overdrafts.* The rule in §707.3(a), providing that disclosures required by §707.8 may be provided to the member in electronic form without regard to E–Sign Act requirements, applies to the disclosures described in §707.11(b), which are incorporated by reference in §707.8(f).

(b) Permissible Rates

1. *Tiered-rate accounts.* An advertisement for a tiered-rate account that states an annual percentage yield must also state the annual percentage yield for each tier, along with corresponding minimum balance requirements. Any dividend rates stated must appear in conjunction with the annual percentage yields for each tier.

2. *Stepped-rate accounts.* An advertisement that states a dividend rate for a stepped-rate account must state all the dividend rates and the time period that each rate is in effect.

3. *Representative examples.* An advertisement that states an annual percentage yield for a type of account (such as a term share account for a specified term) need not state the annual percentage yield applicable to every variation offered by the credit union or indicate that other maturity terms are available. In an advertisement stating that rates for an account may vary depending on the amount of the initial deposit or the term of a term share account, credit unions need not list each balance level and term offered. Instead, the advertisement may:

i. Provide a representative example of the annual percentage yields offered, clearly described as such. For example, if a credit union offers a $25 bonus on all term share accounts and the annual percentage yield will vary depending on the term selected, the credit union may provide a disclosure of the annual percentage yield as follows: ''For example, our 6-month share certificate currently pays a 3.15% annual percentage yield.''

ii. Indicate that various rates are available, such as by stating short-term and longer-term maturities along with the applicable annual percentage yields: ''We offer share certificates with annual percentage yields that depend on the maturity you choose. For example, our one-month share certificate earns a 2.75% APY. Or, earn a 5.25% APY for a three-year share certificate.''

(c) When Additional Disclosures are Required

1. *Trigger terms.* The following are examples of information stated in advertisements that are not ''trigger'' terms:

i. ''One, three, and five year share certificates available''.

ii. ''Bonus rates available''.

iii. ''1% over our current rate,'' so long as the rates are not determinable from the advertisement.

(c)(2) Time Annual Percentage Yield is Offered

1. *Specified recent date.* If an advertisement discloses an annual percentage yield as of a specified date, that date must be recent in relation to the publication or broadcast frequency of the media used. For example, the printing date of a brochure printed once for an account promotion that will be in effect for six months would be considered ''recent,'' even though rates change during the six-month period. Dividend rates published in a daily newspaper or on television must be a rate offered shortly before (or on) the date the rates are published or broadcast. Similarly, dividend rates published in a daily newspaper or on television must be a rate reflecting either the preceding dividend period, or a prospective rate, and the option chosen should be noted.

2. *Reference to date of publication.* An advertisement may refer to the annual percentage yield as being accurate as of the date of publication, if the date is on the publication itself. For instance, an advertisement in a periodical may state that a rate is ''current through the date of this issue,'' if the periodical shows the date.

(c)(5) Effect of Fees

1. *Scope.* This requirement applies only to maintenance or activity fees as described in paragraph 8(a).

(c)(6) Features of Term Share Accounts

(c)(6)(i) Time Requirements

1. *Club accounts.* If a club account has a maturity date, but the term may vary depending on when the account is opened, credit unions may use a phrase such as: ''The maturity date of this club account is November 15; its term varies depending on when the account is opened.''

(c)(6)(ii) Early Withdrawal Penalties

1. *Discretionary penalties.* Credit unions imposing early withdrawal penalties on a case-by-case basis may disclose that they ''may'' (rather than ''will'') impose a penalty if that accurately describes the account terms.

(d) Bonuses

1. *General reference to ''bonus.''* General statements such as ''bonus checking'' or ''get a bonus when you open a checking account'' do not trigger the bonus disclosures.

(e) Exemption for Certain Advertisements

(e)(1) Certain Media

(e)(1)(i)

1. *Internet advertisements.* The exemption for advertisements made through broadcast or electronic media does not extend to advertisements posted on the internet or sent by e-mail.

2. *Internet advertisements.* The exemption for advertisements made through broadcast or electronic media does not extend to advertisements made by electronic communication, such as advertisements posted on the Internet or sent by e-mail.

(e)(1)(iii)

1. *Tiered-rate accounts.* Solicitations for tiered-rate accounts made through telephone response machines must provide all annual percentage yields and the balance requirements applicable to each tier.

(e)(2) Indoor Signs

(e)(2)(i)

1. *General.* Indoor signs include advertisements displayed on computer screens, banners, preprinted posters, and chalk or peg boards. Any advertisement inside the premises that can be retained by a member (such as a brochure or a printout from a computer) is not an indoor sign.

(e)(3) Newsletters

1. *General.* The partial exemption applies to all credit union newsletters, whether instituted before or after the compliance date of part 707. Nor must a newsletter be of any particular circulation frequency (e.g., weekly, monthly, quarterly, biannually, annually,

or irregularly) or of any certain format (e.g. magazine, bulletin, broadside, circular, mimeograph, letter, or pamphlet) in order to be eligible for the partial advertising exemption.

2. *Permissible Distribution.* In order for newsletters to retain the partial advertising exemption, newsletters can be sent to existing credit union members only. Any distribution reasonably calculated to reach only members is also acceptable, such as:

i. Mailing newsletters to existing members.

ii. Distributing newsletters at a function reasonably limited to members, such as an annual meeting or member picnic.

iii. Displaying or offering newsletters at a credit union lobby, branch, or office.

3. *Impermissible Distribution.* Distributing a newsletter in a place open to nonmembers, such as a sponsor's lunch room, is not reasonably calculated to reach only members, and such newsletter would be subject to all applicable advertising rules.

Section 707.9—Enforcement and Record Retention

(c) Record Retention

1. *Evidence of required actions.* Credit unions comply with the regulation by demonstrating they have done the following:

i. Established and maintained procedures for paying dividends and providing timely disclosures as required by the regulation, and

ii. Retained sample disclosures for each type account offered to members, such as account-opening disclosures, copies of advertisements, and change-in-term notices; and information regarding the dividend rates and annual percentage yields offered.

2. *Methods of retaining evidence.* Credit unions must be able to reconstruct the required disclosures or other actions. They need not keep disclosures or other business records in hard copy. Records evidencing compliance may be retained on microfilm, microfiche, or by other methods that reproduce records accurately (including computer files). Credit unions must retain copies of all printed advertisements and the text of all advertisements conveyed by electronic or broadcast media, and newsletters.

3. *Payment of dividends.* Credit unions must retain sufficient rate and balance information to permit the verification of dividends paid on an account, including the payment of dividends on the full principal balance.

Section 707.10 [Reserved]

Section 707.11—Additional Disclosures Regarding the Payment of Overdrafts

(a) Disclosure of total fees on periodic statements

(a)(1) General

1. *Examples of credit unions advertising the payment of overdrafts.* A credit union would trigger the periodic statement disclosures if it:

i. Promotes the credit union's policy or practice of paying some overdrafts, unless the service would be subject to 12 CFR part 226 (Regulation Z), in advertisements using broadcast media, brochures, telephone solicitations,or electronic mail, or on Internet sites, ATM screens or receipts, billboards, orindoor signs. But see, § 707.11(a)(2) of this part regarding communications about the payment of overdrafts that would not trigger periodic statement disclosures;

ii. Includes a message on a periodic statement informing the member of an overdraft limit or the amount of funds available for overdrafts. For example, a credit union that includes a message on a periodic statement informing the member of a $500 overdraft limit or that the member has $300 remaining on the overdraft limit, is promoting an overdraft service;

iii. Discloses an overdraft limit or includes the dollar amount of an overdraft limit in a balance disclosed by any means, including on an ATM receipt or on an automated system, such as a telephone response machine, ATM screen, or the credit union's Internet site.

EDITORIAL NOTE: At 74 FR 36105, July 22, 2009, appendix C to part 707 was amended in section 707.11(a)(1) by removing paragraph 2. and redesignating paragraphs 3. through 8. as 1. through 6.; however, paragraph 1. already exists in the 2009 volume.

1. *Transfer services.* The overdraft services covered by § 707.11(a)(1) of this part do not include a service providing for the transfer of funds from another share account of the member to permit the payment of items without creating an overdraft, even if a fee is charged for the transfer.

2. *Fees for paying overdrafts.* Credit unions must disclose on periodic statements a total dollar amount for all fees or charges imposed on the account for paying overdrafts. The credit union must disclose separate totals for the statement period and for the calendar year-to-date. The total dollar amount includes per-item fees as well as interest charges, daily or other periodic fees, or fees charged for maintaining an account in overdraft status, whether the overdraft is by check or by other means. It also includes fees charged when there are insufficient funds because previously deposited funds are

subject to a hold or are uncollected. It does not include fees for transferring funds from another member account to avoid an overdraft, or fees charged under a service subject to part 226 of this title (Regulation Z).

3. *Fees for returning items unpaid.* The total dollar amount for all fees for returning items unpaid must include all fees charged to the account for dishonoring or returning checks or other items drawn on the account. The credit union must disclose separate totals for the statement period and for the calendar year-to-date. Fees imposed when deposited items are returned are not included. Credit unions may use terminology such as ''returned item fee'' or ''NSF fee'' to describe fees for returning items unpaid.

4. *Waived fees.* In some cases, a credit union may provide a statement for the current period reflecting that fees imposed during a previous period were waived and credited to the account. Credit unions may, but are not required to, reflect the adjustment in the total for the calendar year-to-date and in the applicable statement period. For example, if a credit union assesses a fee in January and refunds the fee in February, the credit union could disclose a year-to-date total reflecting the amount credited, but it should not affect the total disclosed for the February statement period, because the fee was not assessed in the February statement period. If a credit union assesses and then waives and credits a fee within the same cycle, the credit union may, at its option, reflect the adjustment in the total disclosed for fees imposed during the current statement period and for the total for the calendar year-to-date. Thus, if the credit union assesses and waives the fee in the February statement period, the February fee total could reflect a total net of the waived fee.

5. *Totals for the calendar year to date.* Some credit unions' statement periods do not coincide with the calendar month. In such cases, the credit union may disclose a calendar year-to-date total by aggregating fees for 12 monthly cycles, starting with the period that begins during January and finishing with the period that begins during December. For example, if statement periods begin on the 10th day of each month, the statement covering December 10, 2006 through January 9, 2007 may disclose the year-to-date total for fees imposed from January 10, 2006 through January 9, 2007. Alternatively, the credit union could provide a statement for the cycle ending January 9, 2007, showing the year-to-date total for fees imposed January 1, 2006 through December 31, 2006.

6. *Itemization of fees.* A credit union may itemize each fee in addition to providing the disclosures required by §707.11(a)(1) of this part.

(a)(3) Time period covered by disclosures

1. *Periodic statement disclosures.* The disclosures under §707.11(a) must be included on periodic statements provided by a credit union starting with the first statement period that begins after January 1, 2010. For example, if a member's statement period typically closes on the 15th of each month, a credit union must provide the disclosures required by §707.11(a)(1) on subsequent periodic statements for that member beginning with the statement reflecting the period from January 16, 2010 to February 15, 2010.

(a)(5) Acquired accounts

(b) Advertising disclosures in connection with overdraft services

1. *Examples of credit unions promoting the payment of overdrafts.* A credit union must include the advertising disclosures in §707.11(b)(1) of this part if the credit union:

i. Promotes the credit union's policy or practice of paying overdrafts, unless the service would be subject to 12 CFR part 226 (Regulation Z). This includes advertisements using print media such as newspapers or brochures, telephone solicitations, electronic mail, or messages posted on an Internet site. But see, §707.11(b)(2) of this part for communications that are not subject to the additional advertising disclosures;

ii. Includes a message on a periodic statement informing the member of an overdraft limit or the amount of funds available for overdrafts. For example, a credit union that includes a message on a periodic statement informing the member of a $500 overdraft limit or that the member has $300 remaining on the overdraft limit, is promoting an overdraft service.

iii. Discloses an overdraft limit or includes the dollar amount of an overdraft limit in a balance disclosed on an automated system, such as a telephone response machine, ATM screen, or the credit union's Internet site. See, however, §707.11(b)(3) of this part.

2. *Transfer services.* The overdraft services covered by §707.11(b)(1) of this part do not include a service providing for the transfer of funds from another share account of the member to permit the payment of items without creating an overdraft, even if a fee is charged for the transfer.

3. *Electronic media.* The exception for advertisements made through broadcast or electronic media, such as television or radio, does not apply to advertisements posted on a credit union's Internet site, on an ATM screen, provided on telephone response machines, or sent by electronic mail.

4. *Fees.* The fees that must be disclosed under §707.11(b)(1) of this part include per-item fees as well as interest charges, daily or other periodic fees, and fees charged for maintaining an account in overdraft status,

whether the overdraft is by check or by other means. The fees also include fees charged when there are insufficient funds because previously deposited funds are subject to a hold or are uncollected. The fees do not include fees for transferring funds from another account to avoid an overdraft or fees charged when the credit union has previously agreed in writing to pay items that overdraw the account and the service is subject to 12 CFR part 226 (Regulation Z).

5. *Categories of transactions.* An exhaustive list of transactions is not required. Disclosing that a fee may be imposed for covering overdrafts created by check, in-person withdrawal, ATM withdrawal, or other electronic means would satisfy the requirements of §707.11(b)(1)(ii) of this part where the fee may be imposed in these circumstances. See comment 4(b)(4)-5 of this part.

6. *Time period to repay.* If a credit union reserves the right to require a member to pay an overdraft immediately or on demand instead of affording members a specific time period to establish a positive balance in the account, a credit union may comply with §707.11(b)(1)(iii) of this part by disclosing this fact.

7. *Circumstances for nonpayment.* A credit union must describe the circumstances under which it will not pay an overdraft. It is sufficient to state, as applicable: ''Whether your overdrafts will be paid is discretionary and we reserve the right not to pay. For example, we typically do not pay overdrafts if your account is not in good standing, or you are not making regular deposits, or you have too many overdrafts.''

8. *Advertising an account as ''free.''* If the advertised account-related service is an overdraft service subject to the requirements of §707.11(b)(1) of this part, credit unions must disclose the fee or fees for the payment of each overdraft, not merely that a cost is associated with the overdraft service, as well as other required information. Compliance with comment 8(a)—10.v is not sufficient.

(c) Disclosure of account balances

1. *Balance that does not include additional amounts.* For purposes of the balance disclosure requirement in §707.11(c), if a credit union discloses balance information to a member through an automated system, it must disclose a balance that excludes any funds the credit union may provide to cover an overdraft pursuant to a discretionary overdraft service that will be paid by the credit union under a service subject to part 226 of this title (Regulation Z) or that will be transferred from another account held individually or jointly by a member. The balance may, but need not, include funds that are deposited in the member's account, such as from a check, that are not yet made available for withdrawal in accordance with the funds availability rules under part 229 of the title (Regulation CC). In addition, the balance may, but need not, include funds that are held by the credit union to satisfy a prior obligation of the member, for example, to cover a hold for an ATM or debit card transaction that has been authorized but for which the credit union has not settled.

2. *Additional balance.* The credit union may disclose additional balances supplemented by funds that may be provided by the credit union to cover an overdraft, whether pursuant to a discretionary overdraft service, a service subject to part 226 of this title (Regulation Z), or a service that transfers funds from another account held individually or jointly by the member, so long as the credit union prominently states that any additional balance includes these additional overdraft amounts. The credit union may not simply state, for instance, that the second balance is the member's ''available balance,'' or contains ''available funds.'' Rather, the credit union should provide enough information to convey that the second balance includes these amounts. For example, the credit union may state that the balance includes ''overdraft funds.'' Where a member has opted out of the credit union's discretionary overdraft service, any additional balance disclosed should not include funds credit unions provide under that service. Where a member has opted out of the credit union's discretionary overdraft service for some, but not all transactions, *e.g.*, the member has opted out of overdraft services for ATM and debit card transactions, a credit union that includes funds from its discretionary overdraft service in the balance should convey that the overdraft funds are not available for all transactions. For example, the credit union could state that overdraft funds are not available for ATM and debit card transactions.

3. *Automated systems.* The balance disclosure requirement in §707.11(c) applies to any automated system through which the member requests a balance, including, but not limited to, a telephone response system, the credit union's Internet site, or an ATM. The requirement applies whether the credit union discloses a balance through an ATM owned or operated by the credit union or through an ATM not owned or operated by the credit union, including an ATM operated by an entity that is not a financial institution. If the balance is obtained at an ATM, the requirement also applies whether the balance is disclosed on the ATM screen or on a paper receipt.

Appendix A to Part 707—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

1. *Rounding for calculations.* The following are examples of permissible rounding rules

for calculating dividends and the annual percentage yield:

i. The daily rate applied to a balance carried to five or more decimals. For example; .008219178%, 3.00% for a 365 day year, would be rounded to no less than .00822%.

ii. The daily dividends or interest earned carried to five or more decimals. For example; $.08219178082, daily dividends on $1,000 at 3% for a 365 day year, would be rounded to no less than $.08219.

2. *Exponents in a leap year.* The annual percentage yield formula's exponent numerator will remain 365 in leap years. The ''days in term'' figure used in the denominator should be consistent with the length of term used in the dividends calculation.

3. *First tier of a tiered-rate account.* When credit unions use a rate table, the first tier of a tiered rate account is to be disclosed and advertised; ''Up to but not exceeding * * *'', ''$.01 to * * *'', or similar language.

4. *Term Share Accounts Opened in Midterm.* For club accounts that meet the definition of a term share account, the annual percentage yield is based on the maximum number of days in the term not to exceed 365 days (or 366 days in a leap year).

Part II. Annual Percentage Yield Earned for Periodic Statements

1. *Balance method.* The dividend or interest figure used in the calculation of the annual percentage yield earned may be derived from the daily balance method or the average daily balance method. Regardless of the dividend calculation method, the balance used in the annual percentage yield earned formula is the average daily balance. The average daily balance calculation is the sum of the balances for each day in the period divided by the number of days in the period. The balance for each day is based on a point in time; i.e. beginning of day balance, end of day balance, closing of day balance, etc. Each day's balance, for dividend accrual and payment purposes, must be based on the same point in time and cannot be based on the day's low balance.

2. *Negative balances prohibited.* Credit unions must treat a negative account balance as zero to determine the balance on which the annual percentage yield earned is calculated. (See commentary to §707.7(a)(2).)

A. General Formula

1. *Accrued but uncredited dividends.* To calculate the annual percentage yield earned, accrued but uncredited dividends:

i. May not be included in the balance for statements that are issued at the same time or less frequently than the account's compounding and crediting frequency. For example, if monthly statements are sent for an account that compounds dividends daily and credits dividends monthly, the balance may not be increased each day to reflect the effect of daily compounding. Assume a credit union will pay $13.70 in dividends on $100,000 for the first day, $6.85 in dividends on $50,013.70 for the second day, and $3.43 in dividends on $25,020.55 for the third day. The sum of each days balance is $175,000 (does not include accrued, but uncredited, dividends amounts $13.70, $6.85, and $3.43), thereby resulting in an average daily balance for the three days of $58,333.33.

ii. Must be included in the balance for succeeding statements if a statement is issued more frequently than compounded dividends is credited on an account. For example, if monthly statements are sent for an account that compounds dividends daily and credits dividends quarterly, the balance for the second monthly statement would include dividends that had accrued for the prior month. Assume a credit union will pay $411.78 in dividends on 30 days of $100,000, $427.28 in dividends on 31 days of $100,411.78, and $415.23 in dividends on 30 days of $100,839.06. The balance (average daily balance in the account for the period) for the second 31 days is $100,411.78.

2. *Rounding.* The dividends earned figure used to calculate the annual percentage yield earned must be rounded to two decimals to reflect the amount actually paid. For example, if the dividends earned for a statement period is $20.074 and the credit union pays the member $20.07, the credit union must use $20.07 (not $20.074) to calculate the annual percentage yield earned. For accounts that pay dividends based on the daily balance method, compound and credit dividends or interest quarterly, and send monthly statements, the credit union may, but need not, round accrued dividends to two decimals for calculating the ''projected'' or ''anticipated'' annual percentage yield earned on the first two monthly statements issued during the quarter. However, on the quarterly statement the dividends earned figure must reflect the amount actually paid.

3. *Compounding frequency using the average daily balance method.* Any compounding frequency, including daily compounding, can be used when calculating dividends using the average daily balance method. (See comment 707.7(b), which does not require credit unions to compound or credit dividends at any particular frequency).

B. Special Formula for Use Where Periodic Statement is Sent More Often Than the Period for Which Dividends are Compounded

1. *Statements triggered by Regulation E.* Credit unions may, but need not, use this formula to calculate the annual percentage yield earned for accounts that receive quarterly statements and that are subject to Regulation E's rule calling for monthly statements

when an electronic fund transfer has occurred. They may do so even though no monthly statement was issued during a specific quarter. This formula must be used for accounts that compound and credit dividends quarterly and that receive monthly statements, triggered by Regulation E, which comply with the provisions of §707.6.

2. *Days in compounding period.* Credit unions using the special annual percentage yield earned formula must use the actual number of days in the compounding period.

Appendix B to Part 707—Model Clauses and Sample Forms

1. *Modifications.* Credit unions that modify the model clauses will be deemed in compliance as long as they do not delete information required by TISA or regulation or rearrange the format so as to affect the substance or clarity of the disclosures.

2. *Format.* Credit unions may use inserts to a document (see Sample Form B–11) or fill-in blanks (see Sample Forms B–4 and B–5, which use double underlining to indicate terms that have been filled in) to show current rates, fees or other terms.

3. *Disclosures for opening accounts.* The sample forms illustrate the information that must be provided to a member when an account is opened, as required by §707.4(a)(1). (See §707.4(a)(2), which states the requirements for disclosing the annual percentage yield, the dividend rate, and the maturity of a term share account in responding to a member's request.)

4. *Compliance with Regulation E.* Credit unions may satisfy certain requirements under Part 707 with disclosures that meet the requirements of Regulation E. (See §707.3(c).) The model clauses and sample forms do not give examples of disclosures that would be covered by both this regulation and Regulation E (such as disclosing the amount of a fee for ATM usage). Credit unions should consult appendix A to Regulation E for appropriate model clauses.

5. *Duplicate disclosures.* If a requirement such as a minimum balance applies to more than one account term (to obtain a bonus and determine the annual percentage yield, for example), credit unions need not repeat the requirement for each term, as long as it is clear which terms the requirement applies to.

6. *Guide to model clauses.* In the model clauses, italicized words indicate the type of disclosure a credit union should insert in the space provided (for example, a credit union might insert ''March 25, 1995'' in the blank for ''(date)'' disclosure). Brackets and diagonals (''/'') indicate a credit union must choose the alternative that describes its practice (for example, [daily balance/average daily balance]).

7. *Sample forms.* The sample forms (B–4 through B–11) serve a purpose different from the model clauses. They illustrate various ways of adapting the model clauses to specific accounts. The clauses shown relate only to the specific transactions described.

[59 FR 59899, Nov. 21, 1994, as amended at 60 FR 21699, May 3, 1995; 61 FR 68129, Dec. 27, 1996; 63 FR 71575, Dec. 29, 1998; 66 FR 33163, June 21, 2001; 70 FR 72899, Dec. 8, 2005; 72 FR 30246, May 31, 2007; 74 FR 36105, July 22, 2009]

PART 708a—CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS

Sec.

AUTHORITY: 12 U.S.C. 1766, 12 U.S.C. 1785(b).

SOURCE: 71 FR 77167, Dec 22, 2006, unless otherwise noted.

§ 708a.1 Definitions.

As used in this part:

Clear and conspicuous means text in bold type in a font size at least one size larger than any other text used in the document (exclusive of headings), but in no event smaller than 12 point.

Credit union has the same meaning as insured credit union in section 101 of the Federal Credit Union Act.

Federal banking agencies have the same meaning as in section 3 of the Federal Deposit Insurance Act.

Mutual savings bank and *savings association* have the same meaning as in section 3 of the Federal Deposit Insurance Act.

Regional director means the director of the NCUA regional office for the region where a natural person credit union's main office is located. For corporate credit unions, *regional director*