

## National Credit Union Administration

## § 741.13

and/or appeal this revocation to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

(e) *Insurance coverage.* Accounts at foreign branches are insured by the NCUSIF only if denominated in U.S. dollars and only if payable, by the terms of the account agreement, at a U.S. office of the credit union. If the host country requires insurance from its own system, accounts will not be insured by the National Credit Union Share Insurance Fund.

[68 FR 23030, Apr. 30, 2003, as amended at 82 FR 50294, Oct. 30, 2017]

### § 741.12 Liquidity and contingency funding plans.

(a) Any credit union insured pursuant to Title II of the Act that has assets of less than \$50 million must maintain a basic written policy that provides a credit union board-approved framework for managing liquidity and a list of contingent liquidity sources that can be employed under adverse circumstances.

(b) Any credit union insured pursuant to Title II of the Act that has assets of \$50 million or more must establish and document a contingency funding plan (CFP) that meets the requirements of paragraph (d) of this section.

(c) In addition to the requirement specified in paragraph (b) of this section to establish and maintain a CFP, any credit union insured pursuant to Title II of the Act that has assets of \$250 million or more must establish and document access to at least one contingent federal liquidity source for use in times of financial emergency and distressed economic circumstances. These credit unions must conduct advance planning and periodic testing to ensure that contingent funding sources are readily available when needed. A credit union subject to this paragraph may demonstrate access to a contingent federal liquidity source by:

(1) Maintaining regular membership in the Central Liquidity Facility (Facility), as described in part 725 of this chapter;

(2) Maintaining membership in the Facility through an Agent, as described in part 725 of this chapter; or

(3) Establishing borrowing access at the Federal Reserve Discount Window by filing the necessary lending agreements and corporate resolutions to obtain credit from a Federal Reserve Bank pursuant to 12 CFR part 201.

(d) *Contingency Funding Plan:* A credit union must have a written CFP commensurate with its complexity, risk profile, and scope of operations that sets out strategies for addressing liquidity shortfalls in emergency situations. The CFP may be a separate policy or may be incorporated into an existing policy such as an asset/liability policy, a funds management policy, or a business continuity policy. The CFP must address, at a minimum, the following:

(1) The sufficiency of the institution's liquidity sources to meet normal operating requirements as well as contingent events;

(2) The identification of contingent liquidity sources;

(3) Policies to manage a range of stress environments, identification of some possible stress events, and identification of likely liquidity responses to such events;

(4) Lines of responsibility within the institution to respond to liquidity events;

(5) Management processes that include clear implementation and escalation procedures for liquidity events; and

(6) The frequency that the institution will test and update the plan.

(e) A credit union is subject to the requirements of paragraphs (b) or (c) of this section when two consecutive Call Reports show its assets to be at least \$50 million or \$250 million, respectively. A FICU then has 120 days from the effective date of that second Call Report to meet the greater requirements.

[78 FR 64883, Oct. 30, 2013]

### § 741.13 NCUSIF equity distribution related to the Corporate System Resolution Program.

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Aggregate amount of insured shares* means the sum of all insured shares reported by federally insured credit

§741.13

12 CFR Ch. VII (1-1-21 Edition)

unions in calendar year-end Call Reports from the calendar year for which the Board declares an NCUSIF equity distribution pursuant to paragraph (b) of this section.

(2) *Aggregate average amount of insured shares* means the sum of the average amount of insured shares as then reported by all financial institutions eligible to receive an NCUSIF equity distribution under subparagraph (b)(1) of this section in quarterly Call Reports over a given time horizon divided by the number of reporting periods in that time horizon.

(3) *Available assets ratio* means the ratio of:

(i) The amount determined by subtracting—

(A) Direct liabilities of the NCUSIF and contingent liabilities for which no provision for losses has been made from

(B) The sum of cash and the market value of unencumbered investments authorized under section 203 of the Federal Credit Union Act (12 U.S.C. 1783), to

(ii) The aggregate amount of insured shares in all federally insured credit unions.

(4) *Average amount of insured shares* means the sum of insured shares as then reported by a financial institution eligible to receive an NCUSIF equity distribution under subparagraph (b)(1) of this section over a given time horizon divided by the number of reporting periods in that time horizon.

(5) *Board* means the NCUA Board or any individual or group of individuals with the delegated authority to act on behalf of the Board to implement the requirements of this section.

(6) *Corporate System Resolution Program* refers to a special program established by the Board to stabilize the corporate credit union system.

(7) *Federally insured credit union* means a federal or state-chartered credit union that maintains federal share insurance coverage from the NCUSIF.

(8) *Financial institution* means a federally insured credit union, non-federally insured credit union, or an insured depository institution, including a liquidation or receivership estate of any such credit union or depository institution.

(9) *Insured depository institution* means any bank or savings association the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*).

(10) *Insured shares* means the total amount of a federally insured credit union's share, share draft and share certificate accounts, or their equivalent under state law (which may include deposit accounts), authorized to be issued to members, other credit unions, public units, or nonmembers (where permitted under the Act or equivalent state law), but does not include amounts in excess of insurance coverage as provided in part 745 of this chapter.

(11) *National Credit Union Share Insurance Fund* or *NCUSIF* refers to a revolving fund established by Congress within the U.S. Treasury to provide federal share insurance coverage to federally insured credit union members and to offset the NCUA's administrative expenses associated with the conservatorship and liquidation of federally insured credit unions.

(12) *NCUSIF equity distribution* means a distribution of excess equity from the NCUSIF to financial institutions eligible to receive a pro rata share of that distribution pursuant to the requirements of section 202 of the Federal Credit Union Act (12 U.S.C. 1782) and the special rules set out in paragraph (b)(5) of this section.

(13) *NCUSIF equity ratio* means the ratio of:

(i) The amount determined by subtracting—

(A) Direct liabilities of the NCUSIF and contingent liabilities for which no provision for losses has been made from

(B) The sum of all one percent deposits made by federally insured credit unions pursuant to §741.4 of this chapter and the retained earnings balance of the NCUSIF, to

(ii) The aggregate amount of insured shares in all federally insured credit unions.

(14) *Normal operating level* means an NCUSIF equity ratio not less than 1.2 percent and not more than 1.5 percent, as established by action of the Board.

(b) *NCUSIF equity distributions related to the Corporate System Resolution Program.* Notwithstanding § 741.4 of this chapter, the following procedures shall apply to any NCUSIF equity distribution declared for calendar years 2017 through 2021:

(1) *Eligibility for an NCUSIF equity distribution.* The Board shall make an NCUSIF equity distribution to any financial institution that files at least one quarterly Call Report as a federally insured credit union for a reporting period in the calendar year for which the Board declares the NCUSIF equity distribution.

(2) *Requirement to make an NCUSIF equity distribution.* The Board shall make an NCUSIF equity distribution on a pro rata basis to financial institutions after each calendar year if, as of the end of the calendar year:

(i) Any loans to the NCUSIF from the federal government, and any interest on those loans, have been repaid;

(ii) The NCUSIF's equity ratio exceeds the normal operating level; and

(iii) The NCUSIF's available assets ratio exceeds one percent.

(3) *Amount of NCUSIF equity distribution.* The Board shall make the maximum possible NCUSIF equity distribution that does not:

(i) Reduce the NCUSIF's equity ratio below the normal operating level; and

(ii) Reduce the NCUSIF's available assets ratio below one percent.

(4) *Form of NCUSIF equity distribution.* The Board shall have the discretion to determine the form of an NCUSIF equity distribution including a waiver of federal share insurance premiums, a rebate of federal share insurance premiums, a dividend, or any combination thereof.

(5) *Calculation of pro rata share of NCUSIF equity distribution.* The Board shall determine a financial institution's pro rata share of an NCUSIF equity distribution by dividing the dollar amount of the declared NCUSIF equity distribution by the aggregate average amount of insured shares for that given time horizon and then multiplying by a financial institution's average amount of insured shares.

(i) *Time horizons.* When calculating the average amount of insured shares and the aggregate average amount of

insured shares for an NCUSIF equity distribution, the following time horizons shall apply:

(A) *NCUSIF equity distribution for 2017.* The average amount of insured shares and aggregate average amount of insured shares for an NCUSIF equity distribution declared for calendar year 2017 shall be based on information from quarterly Call Reports from the preceding 36 quarters, including the calendar year-end Call Report for 2017.

(B) *NCUSIF equity distribution for 2018.* The average amount of insured shares and aggregate average amount of insured shares for an NCUSIF equity distribution declared for calendar year 2018 shall be based on information from quarterly Call Reports from the preceding 40 quarters, including the calendar year-end Call Report for 2018.

(C) *NCUSIF equity distribution for 2019.* The average amount of insured shares and aggregate average amount of insured shares for an NCUSIF equity distribution declared for calendar year 2019 shall be based on information from quarterly Call Reports from the preceding 44 quarters, including the calendar year-end Call Report for 2019.

(D) *NCUSIF equity distribution for 2020.* The average amount of insured shares and aggregate average amount of insured shares for an NCUSIF equity distribution declared for calendar year 2020 shall be based on information from quarterly Call Reports from the preceding 48 quarters, including the calendar year-end Call Report for 2020.

(E) *NCUSIF equity distribution for 2021.* The average amount of insured shares and aggregate average amount of insured shares for an NCUSIF equity distribution declared for calendar year 2021 shall be based on information from quarterly Call Reports from the preceding 52 quarters, including the calendar year-end Call Report for 2021.

(ii) *Special rules.* The following special rules shall apply to newly-chartered federally insured credit unions, financial institutions that convert to federal share insurance coverage from the NCUSIF, financial institutions that terminate federal share insurance coverage from the NCUSIF, mergers between federally insured credit unions, and purchase and assumption transactions:

(A) *New charters.* A newly chartered federally insured credit union that obtains federal share insurance coverage from the NCUSIF during the calendar year shall not receive an NCUSIF equity distribution for that calendar year unless the federally insured credit union has filed at least one quarterly Call Report as a federally insured credit union for a reporting period in the calendar year. For purposes of calculating the newly chartered federally insured credit union's average amount of insured shares, the federally insured credit union shall be treated as having no insured shares for reporting periods preceding the first reporting period in which the federally insured credit union files its first quarterly Call Report.

(B) *Conversion to federal share insurance.* A financial institution that converts to federal share insurance coverage from the NCUSIF during the calendar year for which the Board declares an NCUSIF equity distribution (including through merger into a federally insured credit union) shall receive a prorated NCUSIF equity distribution for that calendar year provided that the financial institution has filed at least one quarterly Call Report as a federally insured credit union for a reporting period in the calendar year. For purposes of calculating the financial institution's average amount of insured shares, the financial institution shall be treated as having no insured shares for reporting periods preceding the date of conversion to federal share insurance coverage. In cases of conversion through merger, only the insured shares attributable to the continuing federally insured credit union shall be used to determine the average amount of insured shares for reporting periods preceding the date of conversion.

(C) *Conversion from, or termination of, federal share insurance.* A financial institution that terminates federal share insurance coverage from the NCUSIF during the calendar year for which the Board declares an NCUSIF equity distribution (including through a conversion to, or merger into, a non-federally insured credit union or an insured depository institution) shall receive a prorated NCUSIF equity distribution for that calendar year provided that

the financial institution has filed at least one quarterly Call Report as a federally insured credit union for a reporting period in the calendar year. For purposes of calculating the financial institution's average amount of insured shares, the financial institution shall be treated as having no insured shares for reporting periods following the date of termination of federal share insurance coverage. For purposes of this subparagraph, a financial institution that terminates federal share insurance coverage from the NCUSIF through liquidation will be treated as terminating federal share insurance coverage during the calendar year when it enters liquidation.

(D) *Mergers between federally insured credit unions.* A continuing federally insured credit union that merges with a federally insured credit union shall receive an equity distribution equivalent to what the continuing federally insured credit union and the merging federally insured credit union would have received separately but for the consummation of the merger provided that the merging federally insured credit union has filed at least one quarterly Call Report as a federally insured credit union for a reporting period in the calendar year for which the Board declares the distribution. For purposes of calculating the continuing federally insured credit union's average amount of insured shares, any insured shares previously reported by the merging federally insured credit union on its quarterly Call Reports filed prior to the consummation of the merger during that calendar year for which the Board declares the distribution shall be combined with the insured shares reported on the continuing federally insured credit union's quarterly Call Reports.

(E) *Purchase and assumption transactions.* A federally insured credit union that acquires all of the insured shares of another federally insured credit union in the calendar year for which the Board declares an NCUSIF equity distribution shall receive an amount equivalent to what the acquiring federally insured credit union and the selling federally insured credit union would have received but for the consummation of the purchase and assumption transaction provided that the

selling federally insured credit union has filed at least one quarterly Call Report as a federally insured credit union for a reporting period in the calendar year for which the Board declares an NCUSIF equity distribution. For purposes of calculating the acquiring federally insured credit union's average amount of insured shares, any insured shares previously reported during that calendar year for which the Board declares an NCUSIF equity distribution by the selling federally insured credit union on its quarterly Call Reports filed prior to the consummation of the purchase and assumption transaction shall be combined with the insured shares reported on the acquiring federally insured credit union's quarterly Call Reports.

(c) *Expiration.* This section shall expire and no longer be applicable after December 31, 2022.

[83 FR 7962, Feb. 23, 2018]

EFFECTIVE DATE NOTE: At 83 FR 7962, Feb. 23, 2018, § 741.13 was added, effective Mar. 26, 2018, until Dec. 31, 2022.

### **Subpart B—Regulations Codified Elsewhere in NCUA's Regulations as Applying to Federal Credit Unions That Also Apply to Federally Insured State-Chartered Credit Unions**

#### **§ 741.201 Minimum fidelity bond requirements.**

(a) Any credit union which makes application for insurance of its accounts pursuant to title II of the Act must possess the minimum fidelity bond coverage stated in §§ 713.3, 713.5, and 713.6 in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally insured credit union whose fidelity bond coverage is terminated shall mail notice of such termination to the Regional Director not less than 35 days prior to the effective date of such termination.

(b) Corporate credit unions must comply with § 704.18 of this chapter in lieu of part 713 of this chapter.

[60 FR 58504, Nov. 28, 1995, as amended at 64 FR 28721, May 27, 1999; 70 FR 61716, Oct. 26, 2005; 84 FR 1608, Feb. 5, 2019]

#### **§ 741.202 Audit and verification requirements.**

(a) The supervisory committee of each credit union insured pursuant to title II of the Act shall make or cause to be made an audit of the credit union at least once every calendar year covering the period elapsed since the last audit. The audit must fully meet the applicable requirements set forth in part 715 of this chapter or applicable state law, whichever requirement is more stringent.

(b) Each credit union which is insured pursuant to title II of the Act shall verify or cause to be verified, under controlled conditions, all pass-books and accounts with the records of the financial officer not less frequently than once every 2 years. The verification must fully meet the requirements set forth in § 715.8 of this chapter.

[60 FR 58504, Nov. 28, 1995, as amended at 64 FR 41040, July 29, 1999]

#### **§ 741.203 Minimum loan policy requirements.**

Any credit union which is insured pursuant to title II of the Act must:

(a) Adhere to the requirements stated in part 723 of this chapter concerning commercial lending and member business loans, § 701.21(c)(8) of this chapter concerning prohibited fees, and § 701.21(d)(5) of this chapter concerning non-preferential loans. Federally insured state chartered credit unions in a given state are exempt from these requirements if the state supervisory authority for that state adopts substantially equivalent regulations as determined by the NCUA Board or, in the case of the commercial lending and member business loan requirements, if the state supervisory authority administers a state commercial and member business loan rule for use by federally insured credit unions chartered in that state that at least covers all the provisions in part 723 of this chapter and is no less restrictive, upon determination by NCUA. In nonexempt states, all required NCUA reviews and approvals will be handled in coordination with the state credit union supervisory authority; and