

B. Section-by-Section Analysis

Proposed Section 701.22(a)(1)

Deletes the requirement that the participation agreement precede disbursement of the loan but retains the requirement of a participation agreement and that the participation be made with "eligible organizations."

Proposed Section 701.22(b)(2)

The phrase "prior to final disbursement" has been eliminated.

Proposed Section 701.22(c)(4)

A phrase has been added to the "originating lender" approval provision requiring the FCU to use the same underwriting standard for participation loans as those used for loans not being sold as participation loans unless there is a participation agreement in place prior to the disbursement of the loan. An additional sentence has also been added, requiring that, where a participation agreement is in place prior to disbursement, either the originating credit union's loan policies or the participation agreement addresses participation loan underwriting standards.

Proposed Section 701.22(d)(1)

A phrase has been added to the "non originating lender" approval provision requiring the FCU to have a participation policy in place prior to entering into a participation agreement.

C. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a potential number of small credit unions (primarily those under \$1 million in assets). The NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

These amendments do not change the paperwork requirements.

Executive Order 12612

This amendment does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to federal credit unions.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 27, 1995.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and Pub. L. 101-73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601, *et seq.*, 42 U.S.C. 1981 and 42 U.S.C. 3601-3610.

Section 701.35 is also authorized by 12 U.S.C. 4311-4312.

2. Section 701.22 is amended by revising paragraphs (a)(1), (b)(2), (c)(4) and (d)(1) to read as follows:

§ 701.22 Loan participation.

(a) * * *

(1) *Participation loan* is a loan where one or more eligible organizations participates pursuant to a written agreement with the originating lender.

* * * * *

(b) * * *

(2) A written master participation agreement shall be properly executed, acted upon by the Federal credit union's board of directors or the investment committee and retained in the Federal credit union's office. The agreement shall include provisions which identify the participation loan or loans; and

* * * * *

(c) * * *

(4) Require the credit committee or loan officer to use the same underwriting standards for participation loans used for loans that are not being sold in a participation agreement unless there is a participation agreement in place prior to the disbursement of the loan. Where a participation agreement is in place prior to disbursement, either the credit union's loan policies or the participation agreement shall address any variance from non-participation loan underwriting standards.

(d) * * *

(1) Participate only in loans it is empowered to grant, having a participation policy in place which sets forth the loan underwriting standards

prior to entering into a participation agreement;

* * * * *

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12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule will consolidate all current regulations and requirements that apply to federally insured state-chartered credit unions (FISCUs) in one place, part 741, Requirements for Insurance. The proposal will not impose any new requirements on FISCUs.

DATES: Comments must be postmarked or posted on the NCUA electronic bulletin board by October 2, 1995.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration Board, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: Linda Groth, State Program Officer, Office of Examination and Insurance, at the above address or telephone (703) 518-6360 or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Request for Comments

The NCUA Board seeks comments on the proposed changes to part 741 of the NCUA Rules and Regulations.

Background

Part 741 applies to all credit unions whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF). It applies to federal credit unions (FCUs), FISCUs and credit unions making application for insurance of accounts. It prescribes requirements for obtaining and maintaining federal insurance and for the payment of insurance premiums and an insurance capitalization deposit.

Part 741 also serves as a reference for FISCUs in determining which NCUA rules apply to them. It is NCUA's general practice, when a regulation for FCUs also applies to FISCUs, to refer to the regulation in part 741.

Some regulations that apply to FISCUs, however, are not currently included in part 741. Additionally, the Agreement for Insurance of Accounts, which outlines conditions for state-

chartered credit unions obtaining and maintaining federal insurance, contains requirements that are not included in part 741. This proposal corrects those shortcomings by addressing, in part 741, all regulations and requirements that apply to FISCUs. This revision will aid FISCUs by simplifying the process of determining which regulations they must follow. The revision does not impose any additional requirements or new burdens on FISCUs.

Additionally, the proposed revision reorganizes part 741 into subparts A and B. Subpart A contains requirements that apply to all insured credit unions and are not codified elsewhere in NCUA's regulations. Subpart B contains requirements that are set forth in various other parts of NCUA's regulations affecting FCUs and that are, by incorporation in part 741, applicable to FISCUs as well.

Section-by-Section Analysis

Proposed Section 741.0

This section has been modified to include an explanation of new subpart A which contains substantive requirements that are not codified elsewhere in this chapter and new subpart B which lists additional regulations, set forth elsewhere in this chapter as applying to federal credit unions, that also apply to FISCUs.

Subpart A

Proposed Sections 741.1, 741.2, 741.4, 741.5, 741.6, 741.7, 741.8 and 741.9.

In the current part 741, these sections appear as §§ 741.7, 741.5, 741.11, 741.10, 741.13, 741.12, 741.4 and 741.14, respectively. Except for the renumbering, the sections are unchanged. Only technical changes are made to these sections. They are as follows: The sections are renumbered. Section 741.1 is revised to clarify that pursuant to NCUA's examination authority, records and documents must be made available to the NCUA Board or its representative. The last fifteen words of section 741.2 are dropped because they are redundant. Section 741.4(b)(3) is revised to clarify that the NCUA Board may temporarily establish a normal operating level for the NCUSIF of less than 1.3%. Section 741.4(d) is revised to clarify that the annual insurance premium may be waived by the NCUA Board.

Proposed Section 741.3

This proposed section on criteria for insurance is a restatement of the existing § 741.9, with some minor changes. The introduction has been amended by adding the phrase, "and in

continuing insurability" after "insurance" to clarify that the criteria listed in this section apply in order to maintain, as well as to obtain, federal insurance.

Proposed § 741.3(a)(3) incorporates a requirement imposed on FISCUs by the Agreement for Insurance of Accounts. An Investment Valuation Reserve Account must be established for those investments owned by FISCUs that do not conform to NCUA's investment regulation for federal credit unions (12 CFR part 703). The reserve must equal the net excess of book value over current market value. If the market value cannot be determined, a reserve equal to the full book value must be established. Current § 741.9(a)(3) requires a special reserve account, but does not address the market value issue.

The requirement that state-chartered corporate credit unions comply with part 704 has not been carried over from current § 741.9(a)(3) to proposed § 741.3(a)(3), because it is contained in proposed § 741.3(b)(3).

Similarly, the requirement that management agree to comply with "full and fair disclosure" has not been carried over from current § 741.9(c) to proposed § 741.3(c), because it is contained in proposed § 741.3(a)(1).

Proposed Section 741.10

This section is new and incorporates requirements currently imposed on FISCUs by the Agreement for Insurance of Accounts. It affects those FISCUs permitted by state law to accept uninsured nonmember shares or deposits. The FISCO is required to identify these nonmember accounts as nonmember shares or deposits on all statements or reports required by the NCUA Board and advise, in writing, any nonmember share and deposit holders that their accounts are not insured by NCUSIF. This would not apply to low income nonmember deposits that are insured pursuant to § 701.32.

Subpart B

Proposed Sections 741.201, 741.203, 741.204 and 741.205

These proposed sections appear in the current rule as §§ 741.1, 741.3, 741.6 and 741.8 respectively. Except for renumbering, these sections remain unchanged.

Proposed Section 741.202

This section appears in the current rule as § 741.2. It is changed for clarification purposes only. Proposed § 741.202(b) substitutes the term "financial officer" for "treasurer". The purpose of the change is to conform the

wording to the Federal Credit Union Bylaws.

Proposed Sections 741.206 Through 741.218

As described below, these sections refer to other existing regulations that apply to FISCUs and are not currently addressed in part 741.

Proposed Section 741.206

This new section addresses NCUA's regulation concerning Corporate Credit Unions (part 704).

Proposed Section 741.207

This new section addresses the Community Development Revolving Loan Program for Credit Unions and Designation as a Low Income Credit Union (part 705 and § 701.32(d)).

Proposed Section 741.208

This new section provides that FISCUs choosing to merge or voluntarily terminate or convert their insured status must meet the requirements of Section 206 of the FCU Act (12 U.S.C. 1786) and parts 708a and 708b of the NCUA Rules and Regulations.

Proposed Section 741.209

This new section addresses Management Official Interlocks (part 711).

Proposed Section 741.210

This new section addresses the Central Liquidity Facility (part 725).

Proposed Section 741.211

This new section addresses Advertising (part 740).

Proposed Section 741.212

This new section addresses Share Insurance (part 745).

Proposed Section 741.213

This new section addresses Administrative Actions, Adjudicative Hearings, Rules of Practice and Procedure, and Investigations (part 747).

Proposed Section 741.214

This new section addresses the Report of Crime or Catastrophic Act and Bank Secrecy Act compliance (part 748).

Proposed Section 741.215

This new section addresses the Records Preservation Program (part 749).

Proposed Section 741.216

This new section addresses Flood Insurance (part 760).

Proposed Section 741.217

This new section addresses Truth in Savings (part 707).

Proposed Section 741.218

This new section addresses Involuntary Liquidation and Creditor Claims (part 709).

Regulatory Procedures*Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe the significant economic impact any proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). This proposal is a compilation of existing regulations and requirements already in place for FISCUs. It does not add any additional requirements or burden. Accordingly, the NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a significant number of small credit unions and that a Regulatory Flexibility Act analysis is not required.

Paperwork Reduction Act

The proposed rule does not impose any new paperwork requirements.

Executive Order 12612

The proposed rule does not make any substantive changes. Therefore, no new analysis of part 741's effect on state interests is required.

List of Subjects in 12 CFR Part 741

Bank deposit insurance, Credit unions and Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 27, 1995.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to revise part 741 as follows:

PART 741—REQUIREMENTS FOR INSURANCE

Sec.

741.0 Scope.

Subpart A—Regulations that Apply to Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That are Not Codified Elsewhere in NCUA's Regulations

- 741.1 Examination.
- 741.2 Maximum borrowing authority.
- 741.3 Criteria.
- 741.4 Insurance premium and one percent deposit.
- 741.5 Notice of termination of excess insurance coverage.
- 741.6 Financial and statistical and other reports.
- 741.7 Conversion to a state-chartered credit union.

741.8 Purchase of assets and assumption of liabilities.

741.9 Uninsured membership shares.

741.10 Disclosure of share insurance.

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.
- 741.202 Audit and verification requirements.
- 741.203 Minimum loan policy requirements.
- 741.204 Maximum public unit and nonmember accounts, and low-income designation.
- 741.205 Reporting requirements for credit unions that are newly chartered or in troubled condition.
- 741.206 Corporate credit unions.
- 741.207 Community development revolving loan program for credit unions.
- 741.208 Mergers of Federally insured credit unions: voluntary termination or conversion of insured status.
- 741.209 Management official interlocks.
- 741.210 Central Liquidity Facility.
- 741.211 Advertising.
- 741.212 Share insurance.
- 741.213 Administrative actions, adjudicative hearings, rules of practice and procedure.
- 741.214 Report of Crime or Catastrophic Act and Bank Secrecy Act compliance.
- 741.215 Records preservation program.
- 741.216 Flood insurance.
- 741.217 Truth in savings.
- 741.218 Involuntary liquidation and creditor claims.

Authority: 12 U.S.C. 1757, 1766, and 1781–1790. Section 741.4 is also authorized by 31 U.S.C. 3717.

§ 741.0 Scope.

The provisions of this part apply to federal credit unions, federally insured state-chartered credit unions, and credit unions making application for insurance of accounts pursuant to Title II of the Act, unless the context of a provision indicates its application is otherwise limited. This part prescribes various requirements for obtaining and maintaining federal insurance and the payment of insurance premiums and capitalization deposit. Subpart A of this part contains substantive requirements that are not codified elsewhere in this chapter. Subpart B of this part lists additional regulations, set forth elsewhere in this chapter as applying to federal credit unions, that also apply to federally insured state-chartered credit unions. As used in this part, *insured credit union* means a credit union whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Subpart A—Regulations That Apply to Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That Are Not Codified Elsewhere in NCUA's Regulations**§ 741.1 Examination.**

As provided in Sections 201 and 204 of the Act (12 U.S.C. 1781 and 1784), the NCUA Board is authorized to examine any insured credit union or any credit union making application for insurance of its accounts. Such examination may require access to all records, reports, contracts to which the credit union is a party, and information concerning the affairs of the credit union. Upon request, such documentation must be provided to the NCUA Board or its representative. Any credit union which makes application for insurance will be required to pay the cost of such examination and processing. To the maximum extent feasible, the NCUA Board will utilize examinations conducted by state regulatory agencies.

§ 741.2 Maximum borrowing authority.

Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act, or any insured credit union, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and unimpaired capital and surplus (shares and undivided earnings, plus net income or minus net loss).

§ 741.3 Criteria.

In determining the insurability of a credit union which makes application for insurance and in continuing the insurability of its accounts pursuant to Title II of the Act, the following criteria shall be applied:

(a) *Adequacy of reserves.*

(1) *General rule.* State-chartered credit unions must meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on federal credit unions by Section 116 of the Act and part 702 of this chapter.

(2) *Charges against reserves.* State-chartered credit unions may charge losses, including losses other than loan losses, against the statutory reserve in accordance with either state law or procedures established by the state supervisory authority. However, charges for losses other than loan losses shall be made only after notification to the Regional Director, unless the credit union's ratio of capital to assets is greater than 6 percent and the charge reduces the ratio by no more than 1/2 percent. For purposes of this section, capital is defined as the total of the

Regular Reserve, the Allowance for Loan Losses, the Allowance for Investment Losses, Undivided Earnings, and other reserves.

(3) *Special reserve for nonconforming investments.* State-chartered credit unions (except state-chartered corporate credit unions) are required to establish an additional special reserve for investments if those credit unions are permitted by their respective state laws to make investments beyond those authorized in the Act or the NCUA Rules and Regulations. For any investment other than loans to members and obligations or securities expressly authorized in Title I of the Act and part 703 of this chapter, as amended, state-chartered credit unions (except state-chartered corporate credit unions) are required to establish and maintain at the end of each accounting period and prior to payment of any dividend, an Investment Valuation Reserve Account in an amount at least equal to the net excess of book value over current market value of the investments. If the market value cannot be determined, an amount equal to the full book value will be established. When at the end of any dividend period, the amount in the Investment Valuation Reserve exceeds the difference between book value and market value, the board of directors may authorize the transfer of the excess to Undivided Earnings.

(b) *Financial condition and policies.* The following factors are to be considered in determining whether the credit union's financial condition and policies are both safe and sound:

(1) The existence of unfavorable trends which may include excessive losses on loans (i.e., losses which exceed the regular reserve or its equivalent [in the case of state-chartered credit unions] plus other irrevocable reserves established as a contingency against losses on loans), the presence of special reserve accounts used specifically for charging off loan balances of deceased borrowers, and an expense ratio so high that the required transfers to reserves create a net operating loss for the period or that the net gain after these transfers is not sufficient to permit the payment of a nominal dividend;

(2) The existence of written lending policies, including adequate documentation of secured loans and the protection of security interests by recording, bond, insurance, or other adequate means, adequate determination of the financial capacity of borrowers and comakers for repayment of the loan, and adequate determination of value of security on loans to ascertain that said security is

adequate to repay the loan in the event of default;

(3) Investment policies which are within the provisions of applicable law and regulations, i.e., the Act and part 703 of this chapter for federal credit unions and the laws of the state in which the credit union operates for state-chartered credit unions, except state-chartered corporate credit unions. State-chartered corporate credit unions are permitted to make only those investments that are in conformance with part 704 of this chapter and applicable state laws and regulations;

(4) The presence of any account or security, the form of which has not been approved by the Board, except for accounts authorized by state law for state-chartered credit unions.

(c) *Fitness of management.* The officers, directors, and committee members of the credit union must have conducted its operations in accordance with provisions of applicable law, regulations, its charter and bylaws. No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of any criminal offense involving dishonesty or breach of trust, except with the written consent of the Board.

(d) *Insurance of member accounts would not otherwise involve undue risk to the NCUSIF.* The credit union must maintain adequate fidelity bond coverage as specified in § 741.201. Any circumstances which may be unique to the particular credit union concerned shall also be considered in arriving at the determination of whether or not an undue risk to the NCUSIF is or may be present. For purposes of this section, the term "undue risk to the NCUSIF" is defined as a condition which creates a probability of loss in excess of that normally found in a credit union and which indicates a reasonably foreseeable probability of the credit union becoming insolvent because of such condition, with a resultant claim against the NCUSIF.

(e) *Powers and purposes.* The credit union must not perform services other than those which are consistent with the promotion of thrift and the creation of a source of credit for its members, except as otherwise permitted by law or regulation.

(f) *Letter of disapproval.* A credit union whose application for share insurance is disapproved shall receive a letter indicating the reasons for such disapproval, a citation of the authority for such disapproval, and suggested methods by which the applying credit union may correct its deficiencies and thereby qualify for share insurance.

(g) Nothing herein shall preclude the NCUA Board from imposing additional terms or conditions pursuant to the insurance agreement.

§ 741.4 Insurance premium and one percent deposit.

(a) *Scope.* This section implements the requirements of Section 202 of the Act (12 U.S.C. 1782) providing for capitalization of the NCUSIF through the maintenance of a deposit by each insured credit union in an amount equaling one percent of its insured shares and payment of an annual insurance premium.

(b) *Definitions.* For purposes of this section:

(1) *Insurance year* means the period from January 1 through December 31;

(2) *Insured shares* means the total amount of a 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). "Insured shares" does not include amounts in excess of insurance coverage as provided in part 745 of this chapter; and

(3) *Normal operating level* means a total value of the NCUSIF equity equaling 1.3 percent of the aggregate of all insured shares in insured credit unions as of the end of the preceding insurance year, or such lower value as established by action of the NCUA Board.

(c) *One percent deposit.* Each insured credit union shall maintain with the NCUSIF during each insurance year a deposit in an amount equaling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on a date to be determined by the NCUA Board.

(d) *Premium.* Unless waived by the NCUA Board, each insured credit union shall pay to the NCUSIF, on a date to be determined by the NCUA Board, an insurance premium for that insurance year in an amount equaling one-twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

(e) *Redistribution of NCUSIF equity.* When the NCUSIF exceeds its normal operating level, the NCUA Board will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the NCUSIF to its normal operating level. Such adjustment will be in the form determined by the NCUA Board and

may include a waiver of insurance premiums, premium rebates, and/or distributions from NCUSIF equity.

(f) *Forms 1304 and 1305.* A certified copy of Form 1304 will be provided to all federally insured state-chartered credit unions and Form 1305 to all federally chartered credit unions in connection with the computation and funding of their annual premium payment and any change in their one percent deposit. Form 1305 also includes the annual operating fee. Forms 1304 and 1305 are invoices and are precalculated based on the credit union's previous year's insured shares. The forms provide for any adjustments declared by the NCUA Board, resulting in a single net transfer of funds between the credit union and the NCUA. Additional copies of each credit union's Form 1304 and 1305 may be obtained from the appropriate NCUA Regional Office.

(g) *New charters.* A newly-chartered credit union that obtains share insurance coverage from the NCUSIF during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on a date to be determined by the NCUA Board in the following insurance year, but shall not participate in any distribution from NCUSIF equity related to the period prior to the credit union's funding of its deposit.

(h) *Conversion to Federal insurance.* An existing credit union that converts to insurance coverage with the NCUSIF during an insurance year shall immediately fund its one percent deposit based on the total of its shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from NCUSIF equity declared subsequent to the credit union's conversion.

(i) *Mergers of nonfederally insured credit unions.* Where a nonfederally insured credit union merges into a federally insured credit union, the continuing federally insured credit union shall immediately pay to the NCUSIF a prorated insurance premium (unless waived in whole or in part for all federally insured credit unions), and an additional one percent deposit based upon the increase in insured shares resulting from the merger.

(j) *Return of deposit.* Any insolvent credit union that is closed for

involuntary liquidation will not be entitled to a return of its deposit. Any solvent credit union that is closed due to involuntary liquidation shall be entitled to a return of its deposit prior to final distribution of member shares. Any other credit union whose insurance coverage with the NCUSIF terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the NCUA Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the NCUSIF. This includes termination of insurance due to mergers and consolidations. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the NCUSIF until the next distribution from NCUSIF equity and will thus qualify for a prorated share of the distribution.

(k) *Assessment of administrative fee and interest for delinquent payment.* Each federally insured credit union shall pay to the NCUA an administrative fee, the costs of collection, and interest on any delinquent payment of its capitalization deposit or insurance premium. A payment will be considered delinquent if it is postmarked later than the date stated in the invoice provided to the credit union. The NCUA may waive or abate charges or collection of interest, if circumstances warrant.

(1) The administrative fee for a delinquent payment shall be an amount as fixed from time to time by the NCUA Board based upon the administrative costs of such delinquent payments to the NCUA in the preceding year.

(2) The costs of collection shall be calculated as the actual hours expended by NCUA personnel multiplied by the average hourly cost of the salaries and benefits of such personnel.

(3) The interest rate charged on any delinquent payment shall be the U.S. Department of the Treasury Tax and Loan Rate in effect on the date when the payment is due as provided in 31 U.S.C. 3717.

§ 741.5 Notice of termination of excess insurance coverage.

In the event of a credit union's termination of share insurance coverage other than that provided by the NCUSIF, the credit union must notify all members in writing of such termination at least 30 days prior to the effective date of termination.

§ 741.6 Financial and statistical and other reports.

(a) Each operating insured credit union with assets in excess of \$50,000,000 shall file with the NCUA a quarterly Financial and Statistical Report on Form NCUA 5300, on or before January 22 (as of the previous December 31), April 22 (as of the previous March 31), July 22 (as of the previous June 30) and October 22 (as of the previous September 30) of each year. All other operating insured credit unions shall file with the NCUA on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the NCUA Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.

§ 741.7 Conversion to a state-chartered credit union.

Any federal credit union that petitions to convert to a state-chartered federally insured credit union is required to apply to the Regional Director for continued insurance of its accounts and meet the requirements as stated in the Act and this part. If the application for continued insurance is not approved, such insurance will terminate subject to the conditions set forth in section 206(d) of the Act.

§ 741.8 Purchase of assets and assumption of liabilities.

(a) Any credit union insured pursuant to Title II of the Act must apply for and receive approval from the NCUA Board before either purchasing or acquiring loans or assuming or receiving an assignment of deposits, shares, or liabilities from:

(1) Any credit union that is not insured pursuant to Title II of the Act;

(2) Any other financial-type institution (including depository institutions, mortgage banks, consumer finance companies, insurance companies, loan brokers, and other loan sellers or liability traders); or

(3) Any successor in interest to any institution identified in paragraphs (a)(1) or (a)(2) of this section.

(b) Approval is not required for:

(1) Purchases of student loans or real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market under § 701.23(b)(1) (iii) or (iv) of this chapter or comparable state law for state-chartered credit unions, or purchases of member loans under

§ 701.23(b)(1)(i) of this chapter or comparable state law for state-chartered credit unions; or

(2) Assumptions or receipt of deposits, shares or liabilities as rollovers or transfers of member retirement accounts or in which an NCUSIF-insured credit union perfects a security interest in connection with an extension of credit to any member.

§ 741.9 Uninsured membership shares.

Any credit union that is insured pursuant to Title II of the Act may not offer membership shares that, due to the terms and conditions of the account, are not eligible for insurance coverage. This prohibition does not apply to shares that are uninsured solely because the amount is in excess of the maximum insurance coverage provided pursuant to part 745 of this chapter.

§ 741.10 Disclosure of share insurance.

Any credit union which is insured pursuant to Title II of the Act and is permitted by state law to accept nonmember shares or deposits from sources other than other credit unions and public units (or, for low-income designated credit unions, any nonmembers), shall identify such nonmember accounts as nonmember shares or deposits on any statement or report required by the NCUA Board for insurance purposes. Immediately after a state-chartered credit union receives notice from NCUA that its member accounts are federally insured, the credit union shall advise any present nonmember share and deposit holders by letter that their accounts are not insured by the NCUSIF. Also, future nonmember share and deposit fund holders will be so advised by letter as they open accounts.

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 § 701.20 of this chapter 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 § 704.17 of this chapter in lieu of § 701.20.

§ 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 requirements set forth in §§ 701.12 and 701.13 of this chapter.

(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 passbooks 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 §§ 701.12(e) and 701.13 of this chapter.

§ 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 § 701.21(h) of this chapter concerning member business loans, § 701.21(c)(8) of this chapter concerning prohibited fees, and § 701.21(d)(5) of this chapter concerning nonpreferential loans. State-chartered, NCUSIF-insured credit unions in a given state are exempt from these requirements if the state regulatory authority for that state adopts substantially equivalent regulations as determined by the NCUA Board. In nonexempt states, all required NCUA reviews and approvals will be handled in coordination with the state credit union supervisory authority; and

(b) adhere to the requirements stated in part 722 of this chapter concerning appraisals.

§ 741.204 Maximum public unit and nonmember accounts, and low-income designation.

Any credit union that is insured, or that makes application for insurance, pursuant to Title II of the Act must:

(a) Adhere to the requirements of § 701.32 of this chapter regarding public unit and nonmember accounts, provided it has the authority to accept such accounts. Requests by federally insured state-chartered credit unions for an exemption from the limitation of § 701.32 will be made and reviewed on the same basis as that provided in § 701.32 for federal credit unions, provided, however that NCUA will not grant an exemption without the concurrence of the appropriate state regulator.

(b) Obtain a low-income designation in order to accept nonmember accounts, other than from public units or other credit unions, provided it has the authority to accept such accounts under state law. The state regulator shall make the low-income designation with the concurrence of the appropriate regional director. The designation will be made and reviewed by the state regulator on the same basis as that provided in § 701.32(d) for federal credit unions. Removal of the designation by the state regulator for such credit unions shall be with the concurrence of NCUA.

§ 741.205 Reporting requirements for credit unions that are newly chartered or in troubled condition.

Any federally insured credit union chartered for less than 2 years or any credit union defined to be in troubled condition as set forth in § 701.14(b)(3) of this chapter must adhere to the requirements stated in § 701.14(c) concerning the prior notice and NCUA review. Federally insured state-chartered credit unions must submit required information to both the appropriate NCUA Regional Director and their state supervisor. NCUA will consult with the state supervisor before making its determination pursuant to § 701.14(d)(2) and (f). NCUA will notify the state supervisor of its approval/disapproval no later than the time that it notifies the affected individual pursuant to § 701.14(d)(1).

§ 741.206 Corporate credit unions.

Any corporate credit union insured pursuant to Title II of the Act shall adhere to the requirements of part 704 of this chapter.

§ 741.207 Community development revolving loan program for credit unions.

Any credit union which is insured pursuant to Title II of the Act and is a "participating credit union," as defined in § 705.3 of this chapter, shall adhere to the requirements stated in part 705 of this chapter.

§ 741.208 Mergers of federally insured credit unions: voluntary termination or conversion of insured status.

Any credit union which is insured pursuant to Title II of the Act and which merges with another credit union or non credit union institution, and any state-chartered credit union which voluntarily terminates its status as a federally-insured credit union, or converts from federal insurance to other insurance from a government or private source authorized to insure member accounts, shall adhere to the applicable requirements stated in Section 206 of the Act and parts 708a and 708b of this

chapter concerning mergers and voluntary termination or conversion of insured status.

§ 741.209 Management official interlocks.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 711 of this chapter concerning management official interlocks, issued under the provisions of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.).

§ 741.210 Central liquidity facility.

Any credit union which is insured pursuant to Title II of the Act and is a member of the Central Liquidity Facility, shall adhere to the requirements stated in part 725 of this chapter.

§ 741.211 Advertising.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements prescribed by part 740 of this chapter.

§ 741.212 Share insurance.

(a) Member share accounts received by any credit union which is insured pursuant to Title II of the Act in its usual course of business, including regular shares, share certificates, and share draft accounts, are insured subject to the limitations and rules in subpart A of part 745 of this chapter.

(b) The payment of share insurance and the appeal process applicable to any credit union which is insured pursuant to Title II of the Act are addressed in subpart B of part 745 of this chapter.

§ 741.213 Administrative actions, adjudicative hearings, rules of practice and procedure.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the applicable rules of practice and procedures for administrative actions and adjudicative hearings prescribed by part 747 of this chapter. Subpart E of part 747 applies only to federal credit unions.

§ 741.214 Report of crime or catastrophic act and bank Secrecy Act Compliance.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 748 of this chapter.

§ 741.215 Records preservation program.

Any credit union which is insured pursuant to Title II of the Act shall maintain a records preservation program as prescribed by part 749 of this chapter.

§ 741.216 Flood insurance.

Any credit union which is insured pursuant to Title II of the Act shall

adhere to the requirements stated in part 760 of this chapter.

§ 741.217 Truth in savings.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 707 of this chapter.

§ 741.218 Involuntary liquidation and creditor claims.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the applicable provisions in part 709 of this chapter. Section 709.3 of part 709 applies only to federal credit unions.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95-ANM-3]

Proposed Alteration of Federal Airways V-19, V-148, and V-263; CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to realign three Federal airways located in Colorado. In May, the Byers, CO, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) became operational as part of the new Denver Airport airspace realignment. Consequently, the FAA is proposing to realign Federal Airways V-19, V-148, and V-263. This proposal would enhance air traffic procedures.

DATES: Comments must be received on or before August 18, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANM-500, Docket No. 95-ANM-3, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98055-4056.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical

Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9230.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95-ANM-3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal