Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

Share Insurance and Appendix

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule will amend regulations on the payment of share insurance and appeals to provide authority for the liquidating agent to pay dividends earned or accrued, but not posted to share accounts. Also, the proposed rule will amend those regulations to reference other regulations on the construction of time limits when computing time.

DATES: Comments must be postmarked or posted on the NCUA electronic bulletin board by September 10, 1996.

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: Jerry L. Courson, Special Assistant to the President, National Credit Union Administration, Asset Liquidation Management Center, 4807 Spicewood Springs Road, Suite 5100, Austin, Texas 78759 or telephone (512) 795-0999 or Allan H. Meltzer, Associate General Counsel, National Credit Union Administration, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Request for Comments

The NCUA Board seeks comments on the proposed changes to Part 745 of the NCUA Rules and Regulations.

Background

Subpart B of Part 745 of the NCUA Rules and Regulations deals with the payment of share insurance and appeals. Specifically, Section 745.200(b) provides that in determining the amount of share insurance, no dividends shall be paid on shares if sufficient undivided and current earnings are not available for such purpose. However, dividends accrued and posted to share accounts for prior accounting periods are considered as principal (regardless of earnings).

In a small number of liquidations, it has been necessary to reconstruct and correct the credit union records. In these liquidation cases, the reconstruction process disclosed situations where dividends were posted to some member accounts and not posted to other member accounts. Under the current regulation, to properly reconstruct these accounts and the dividends that were miscalculated or omitted, the liquidating agent obtained authority from the NCUA Board.

Since the current rule was adopted in 1990, only a small number of the 352 credit unions placed into involuntary liquidation have involved dividend issues. In most cases, the records are updated and dividends are posted before liquidation. Based on the current volume, if all cases involving unposted dividends were referred to the NCUA Board, the workload would be excessive. However, the workload of the liquidating agent would increase, because it would be necessary to audit or review each member account twice, and the additional workload would result in a delay in actual payment to the members.

The liquidation process would be more efficient if a rule is adopted that permits recording unposted dividends. This option also provides for a more equitable treatment of all members. The proposed rule provides discretion for the liquidating agent to correct share accounts by recording dividend payments that were not posted or were incorrectly posted by credit union personnel due to fraud, embezzlement, or accounting errors. Under the proposed rule, dividends not earned in the normal course of business would not be included in the determination of insured shares. In addition, the proposed rule provides flexibility in dealing with sufficient earnings. Under the current regulation, dividend payments cannot be considered as principal for insurance purposes if sufficient earnings were not available.

The proposed rule is silent on sufficient earnings, but a credit union’s earnings could be a factor used by the liquidating agent in determining insured shares.

Under the proposed rule, decisions on unposted dividends can be made without specific NCUA Board action.

In addition to amending the rule to deal with unposted dividends, the proposed rule making also amends Section 745.200(d) to reference Section 747.12(a) of the NCUA Rules and Regulations when computing time. The current regulation references Section 747.119, and this section no longer exists.

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 deals with the payment of share insurance and does not directly impact operating credit unions. It does not add any additional requirements or burden. The proposal could provide an additional level of confidence for the credit union member. 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 substantial 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 changes to Section 745.200 will apply to both federal credit unions and federally-insured, state chartered credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined that the proposed amendment will not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Further, the proposed rule will not preempt provisions of state law or regulation.
§ 745.200 General.

(b) Amount of insurance. The amount of insurance on an insured account shall be determined in accordance with the provisions of subpart A of this part and the Federal Credit Union Act. For the purpose of determining insurance coverage, dividends earned in the ordinary course of business and posted to share accounts for any prior accounting or dividend period shall be deemed to be principal under this rule. Dividends earned or accrued in the ordinary course of business, but not posted to share accounts, may be paid at the discretion of the liquidating agent. In making such determination, the liquidating agent will take into consideration whether the failure to post dividends earned or accrued was due to the fraud, embezzlement or accounting errors of credit union personnel. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records.

(d) Computing time. In computing any period of time prescribed by this subpart, the provisions of § 747.12(a) shall apply.

[FR Doc. 96–17783 Filed 7–11–96; 8:45 am]