ranchers, or aquatic producers. Two FCS banks, an association, and the Farm Credit Council (Council) requested relief from § 613.3030(a)(3), which allows System lenders to finance non-farm rural homes only in towns or villages with populations not exceeding 2,500 inhabitants. Changing population patterns since Congress set this limit almost 30 years ago make it increasingly difficult for the System to meet the credit needs of homebuyers in rural areas. Because this restriction is statutory, however, we cannot grant the commenters' request.

Three Farm Credit banks and the Council asked us to repeal § 613.3030(c). Under this provision, FCS banks and associations can extend credit to eligible rural homeowners only for the purposes of buying, building, remodeling, repairing or improving rural homes, or refinancing the existing indebtedness on such homes. The commenters want us to remove this restriction so eligible non-farm rural homeowners can borrow against the equity in their homes and use the loan proceeds for any purpose. We thoroughly addressed this issue when we developed § 613.3030 during an extensive rulemaking that ended in 1997. *See* 62 FR 4429, Jan. 30, 1997. We are not inclined to change our policy at this time.

C. Similar Entities

A Farm Credit bank requested changes to § 613.3300, which governs FCS participation in loans that non-System lenders make to similar entities. Under sections 3.1(11)(B) and 4.18A of the Act, similar entities are parties that are ineligible to borrow directly from System banks and associations but derive most of their income from, or have most of their assets invested in, the same activities as eligible borrowers.

The bank wants us to revise the rule so the FCS can make loans directly to similar entities. We cannot grant this request because sections 3.1(11)(B) and 4.18A of the Act do not authorize Farm Credit banks and associations to lend directly to similar entities. These statutory provisions specify that System institutions may only participate in credits that non-System lenders extend to similar entities. Further, sections 3.1(11)(B)(i)(bb) and 4.18A(b)(2) of the Act limit System participation in similar entity loans to less than 50 percent of the principal.

D. First Lien Requirement

Three Farm Credit banks, one association, and the Council asked us to repeal a provision in § 614.4200(b)(1) that requires Farm Credit banks, Federal land credit associations, and agricultural credit associations to secure their long-term mortgage loans with a first lien on the borrower's real estate. Section 1.7(a)(1) of the Act expressly requires FCS long-term mortgage lenders to take a first lien on the borrower's property in a rural area as security for the loan. Thus, this regulation cannot be repealed. Additionally, failure to secure a long-term mortgage loan with a first lien on the security property may be an unsafe and unsound practice. However, long-term mortgage lenders may still take additional collateral without a first lien, as an abundance of caution.

E. Borrower Stock for Loan Sales Within the FCS

Currently, § 614.4335(c)(1)(i) allows borrowers whose loans are sold within the FCS to decide whether to hold voting stock in the association that bought or sold their loans. Two Farm Credit banks, two associations, and the Council requested a revision that would allow System institutions involved in the transactions, rather than the borrower, to make this choice. We believe it is the right of a stockholder to elect whether to hold stock in a selling or purchasing FCS institution. This shareholder right is a basic tenant of FCS cooperative principles and this provision ensures that farmers, ranchers, and aquatic producers have the right to participate in the affairs of the FCS association of their choice when their loans are sold within the System.

F. Attribution Rules for Lending Limit Calculations

Two Farm Credit banks, one association, and the Council asked us to revise the attribution rules for calculating lending limits. These commenters claim that the current regulation, § 614.4359, is confusing. The FCA is fully committed to the plain language goals of the National Performance Review. Therefore, we plan to rewrite these regulations so they are easier to understand and apply. However, we do not plan to make substantive changes to the attribution rules at this time. We believe they protect the safety and soundness of System banks and associations by limiting their exposure to risk from any one borrower or a group of related borrowers. Additionally, our existing regulation is consistent with the approach of other Federal bank regulatory agencies.

G. Flood Insurance

Two Farm Credit banks asked us to exempt certain farm and ranch outbuildings and commercial agribusiness firms from flood insurance requirements. The National Flood Insurance Reform Act of 1994 (1994 Reform Act) requires flood insurance for all buildings that secure loans made by the FCS, commercial banks, credit unions, and savings associations if those buildings are in areas that the Federal Emergency Management Agency deems to be in special flood hazard areas. The 1994 Reform Act offers no flexibility for the FCA to make regulatory exclusions for farm and ranch outbuildings, or commercial agribusiness firms. Furthermore, we joined with five other Federal bank regulatory agencies to ensure that the same flood insurance rules apply to commercial banks, savings associations, credit unions, and the FCS. Therefore, we are unable to repeal § 614.4920(b) because it is a statutory requirement.

III. Future Efforts to Reduce Unnecessary Regulatory Burdens on FCS Institutions

We will address all remaining regulatory burden issues that System institutions raised during the comment period in separate regulatory projects. The comments indicate that some System institutions may need guidance about how some regulations mentioned in Part II of this statement apply in certain situations. We hope to clarify these regulations in the future. When we complete our efforts, the regulatory burdens on the System will be reduced. However, we will maintain those regulations that are necessary to implement the Act and are critical for the safety and soundness of the System. Our approach will enable the FCS to continue to provide much needed credit to America's farmers, ranchers, aquatic producers, their cooperatives and other rural residents.

Dated: April 13, 2000.

Vivian Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 00–9850 Filed 4–19–00; 8:45 am]

BILLING CODE 6705–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its rule pertaining to secondary capital accounts for low-income designated credit unions to conform it to the recently issued prompt corrective action rule (PCA). Under PCA, NCUA has discretionary authority, under certain circumstances, to prohibit a credit union from paying principal, dividends or interest on the credit union's secondary capital accounts established after August 7, 2000.

DATES: This rule is effective August 7, 2000.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION: Federal credit unions that serve predominantly low-income members may be designated by NCUA as low-income credit unions (LICUs). LICUs play an important role in providing financial services to low-income individuals and communities for whom these services are often unavailable. LICUs often find it difficult, however, to accumulate capital due to the limited resources of their members. To enhance LICUs' ability to build capital, § 701.34 of NCUA's regulations permits LICUs to offer uninsured secondary capital accounts to nonnatural person members and nonmembers. 12 CFR § 701.34.

Section 701.34 provides that funds in the secondary capital account must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. It also provides that, to the extent secondary capital account funds are used to cover operating losses, the credit union cannot replenish those funds under any circumstances.

In 1998, Congress amended the Federal Credit Union Act to establish minimum capital standards for federally-insured credit unions. NCUA was required to adopt, by regulation, a PCA system to restore the capital level of credit unions that become inadequately capitalized. The NCUA Board has established, among other things, a comprehensive framework of mandatory and discretionary supervisory actions indexed to defined net worth categories. 65 FR 8559 (February 18, 2000).

Within that framework, PCA distinguishes ''new'' credit unions, those that have been in operation less than 10 years and have $10 million or less in assets, from other credit unions. 12 U.S.C. 1790d(o)(4). New credit unions are subject to an alternative system of PCA with net worth categories that differ from those applicable to other credit unions. 12 U.S.C. 1790d(b)(2)(A).

A credit union, other than a new credit union, that has a net worth ratio of less than 2% is categorized as ''critically undercapitalized''. Section 702.204(b)(11) of the PCA rules permits NCUA to take discretionary action against critically undercapitalized credit unions. Specifically, it provides that:

> Beginning 60 days after the effective date of classification of a credit union as ''critically undercapitalized,'' [NCUA has the discretion to] prohibit payments of principal, dividends or interest on the credit union's uninsured secondary capital accounts established after August 7, 2000, except that unpaid dividends or interest shall continue to accrue under the terms of the account to the extent permitted by law * * *.

12 CFR 702.204(b)(11).

New credit unions with net worth ratios of less than 6% are categorized as ''moderately capitalized'' (3.5%–5.99%), ''marginally capitalized'' (2%–3.49%), ''minimally capitalized'' (0%–1.99%) or ''uncapitalized'' (less than 0%). 12 CFR 702.302(c). Sections 702.304(b) and 702.305(b) of the PCA rules permit NCUA to take discretionary actions against new credit unions that fall within these categories. Specifically, each provides that:

> [T]he NCUA Board may, by directive, take one or more of the actions prescribed in § 702.204(b) [of the PCA rules, including the prohibition of payments on secondary capital accounts] if the credit union's net worth ratio has not increased consistent with its then-present business plan, or the credit union has failed to undertake any mandatory supervisory action prescribed in paragraph (a) of this section.

12 CFR 702.304(b) and 702.305(b).

The below amendments conform the secondary capital rules to the PCA rules.

Final Rule

The NCUA Board has issued this as a final rule effective August 7, 2000. There is a strong public interest in having secondary capital rules in place that are consistent with and conform to the provisions of PCA. As part of the PCA rulemaking process, notice of and an opportunity to comment on the below amendments to the secondary capital rule were given in compliance with the Administrative Procedure Act (5 U.S.C. 551) (APA). 63 FR 57938 (October 29, 1998); 64 FR 27090 (May 18, 1999); 64 FR 44663 (August 17, 1999); 65 FR 8559 (February 18, 2000). Comments pertaining to these amendments were incorporated into PCA. Additionally, these conforming amendments are being published far in advance of the 30 days required by Section 553(d) of the APA (5 U.S.C. 553(d)) as neither PCA nor the conforming amendments are effective until August 7, 2000. Accordingly, for good cause, the Board finds that, with respect to the conforming amendments, NCUA has complied with the notice and public procedure requirements of the APA. The Board also finds that additional notice and public procedure would be duplicative and excessive and, therefore, under 5 U.S.C. 553(b)(3)(B), are impracticable, unnecessary, and contrary to the public interest.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact agency rulemaking may have on a substantial number of small credit unions. For purposes of this analysis, credit unions under $1 million in assets are considered small credit unions. As of June 30, 1999, there were 1,690 small credit unions with a total of $807.3 million in assets, having an average size of $0.5 million. Small credit unions make up 15.6% of all credit unions, but only 0.2% of all credit union assets.

It is anticipated that this final rule will effect relatively few small credit unions. It will apply only to those credit unions that establish secondary capital accounts after August 7, 2000 that then become classified as critically undercapitalized or otherwise trigger potential discretionary action under PCA. Even then, corrective action will only be taken where NCUA chooses to exercise its discretion to do so. NCUA has determined that this rule will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

NCUA has determined that these amendments to § 701.34 do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies

with the executive order. This rule will apply to all federally-insured credit unions offering secondary capital accounts pursuant to § 701.34, but it will not have substantial direct effects 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. NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the APA. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on April 13, 2000.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR part 701 is amended as follows:

PART 701—ORGANIZATION AND OPERATIONS 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, and 1789. 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. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.34 is amended by adding paragraphs (b)(12) and (b)(13) to read as follows:

§ 701.34 Designation of low-income status; receipt of secondary capital accounts by low-income designated credit unions.

* * * * *

(b) * * *

(12) As provided in § 702.204(b)(11) of this chapter, 60 days after the effective date of a credit union being classified as ''critically undercapitalized'' under NCUA's prompt corrective action rules, the NCUA Board may prohibit payments of principal, dividends or interest on the credit union's uninsured secondary capital accounts established after August 7, 2000, except that unpaid dividends or interest shall continue to accrue under the terms of the account to the extent permitted by law.

(13) As provided in §§ 702.304(b) and 702.305(b) of this chapter, the NCUA Board may prohibit payments of principal, dividends or interest on the uninsured secondary capital accounts established after August 7, 2000 of a ''moderately capitalized'', ''marginally capitalized'', ''minimally capitalized'' or ''uncapitalized'' credit union if the credit union's net worth ratio has not increased consistent with its then-present business plan, or the credit union has failed to undertake any mandatory supervisory action prescribed in §§ 702.304(a) or 702.305(a) of this chapter. If NCUA takes this action, unpaid dividends or interest shall continue to accrue under the terms of the account to the extent permitted by law.

* * * * *

3. The Appendix to § 701.34 is amended by adding a paragraph to immediately precede the signature line to read as follows:

Appendix to § 701.34 [Amended]

* * * * *

• The NCUA may prohibit payments of principal, dividends or interest on _____ (name of credit union) uninsured secondary capital accounts established after August 7, 2000, if _____ (name of credit union) has been in operation less than 10 years and has $10 million or less in assets and the provisions of § 701.34(b)(13) of NCUA's regulations are met, or, if _____ (name of credit union) has been in operation for 10 years or more or has more than $10 million in assets and the provisions of § 701.34(b)(12) of NCUA's regulations are met.

* * * * *

[FR Doc. 00–9855 Filed 4–19–00; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its regulations that implement the Truth in Savings Act (TISA). This final rule allows credit unions to deliver periodic statement disclosures required by NCUA's regulations in electronic form if the member agrees to this form of delivery.

DATES: This rule is effective May 22, 2000.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION

A. Background

Part 707 of NCUA's regulations implements TISA. 12 CFR part 707. The purpose of part 707 and TISA is to assist members in making meaningful comparisons among accounts offered by credit unions and other financial institutions. Part 707 and TISA require, among other things, disclosure of yields, fees and other terms concerning share accounts to members at account opening, upon request, when changes in terms occur and in periodic statements. Many of these disclosures must be written. Many laws requiring that information be in writing consider information in electronic form to be written. Information produced, stored, or communicated by computer is also generally considered to be a writing, where visual text is involved.

The Board of Governors of the Federal Reserve System (Federal Reserve) issued an interim rule amending its Regulation DD, which implements TISA. That rule allows depository institutions to deliver periodic statement disclosures required by Regulation DD in electronic form if the consumer agrees to that form of delivery. 64 FR 49846 (September 14, 1999). In doing so, the Federal Reserve stated that electronic delivery of these kinds of disclosures will reduce paperwork and costs for institutions and may benefit consumers by allowing them to receive their periodic account statements, including required