

*B. Executive Order 12866*

The Director of OTS has determined that this proposed rule does not constitute a “significant regulatory action” for purposes of Executive Order 12866.

*C. Regulatory Flexibility Act*

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601), the Director certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule would permit Subsidiary Companies to adopt an optional charter provision. Accordingly, OTS has determined that a Regulatory Flexibility Analysis is not required.

*D. Unfunded Mandates Reform Act of 1995*

OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of \$100 million or more and that a budgetary impact statement is not required under Section 202 of the Unfunded Mandates Reform Act of 1995, Publication Law 104–4 (Unfunded Mandates Act). The proposed rule would permit Subsidiary Companies to adopt an optional charter provision. The proposed rule changes should not have a significant impact on small institutions. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act.

**List of Subjects in 12 CFR Part 575**

Administrative practice and procedure, Capital, Holding companies, Reporting and recordkeeping requirements, Savings Associations, Securities.

**Authority and Issuance**

For the reasons set forth in the preamble, the Office of Thrift Supervision proposes to amend Chapter V of title 12 of the Code of Federal Regulations, as set forth below:

**PART 575—MUTUAL HOLDING COMPANIES**

1. The authority citation for 12 CFR part 575 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

2. Amend § 575.9 by redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

**§ 575.9 Charters and bylaws for mutual holding companies and their savings association subsidiaries.**

\* \* \* \* \*

(c) *Optional charter provision following minority stock issuance.* A federal resulting association or federal acquiree association may, during the five years immediately following a minority stock issuance that such association conducts in accordance with the purchase priorities set forth in 12 CFR part 563b, include in its charter the following provision (for purposes of this charter provision, the definitions set forth at § 552.4(b)(8) of this chapter apply):

*Beneficial Ownership Limitation.* No person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of the outstanding stock of any class of voting stock of the association held by persons other than the association's mutual holding company. This limitation does not apply to a transaction in which an underwriter purchases stock in connection with a public offering, or the purchase of stock by an employee stock ownership plan or other tax-qualified employee stock benefit plan that is exempt from the approval requirements under § 574.3(c)(1)(iv) of the Office's regulations.

In the event a person acquires stock in violation of this section, all stock beneficially owned by such person in excess of 10 percent of the stock held by stockholders other than the mutual holding company shall be considered “excess shares” and shall not be counted as stock entitled to vote and shall not be voted by any person or counted as voting stock in connection with any matters submitted to the stockholders for a vote.

\* \* \* \* \*

3. In § 575.14, redesignate paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5), respectively, and add a new paragraph (c)(3) to read as follows:

**§ 575.14 Subsidiary holding companies.**

\* \* \* \* \*

(c) \* \* \*  
(3) *Optional charter provision following minority stock issuance.* A subsidiary holding company may, during the five years immediately following a minority stock issuance that such subsidiary holding company conducts in accordance with the purchase priorities set forth in 12 CFR part 563b, include in its charter the provision set forth below (for purposes of this charter provision, the definitions set forth at § 552.4(b)(8) of this chapter apply):

*Beneficial Ownership Limitation.* No person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of the outstanding stock of any class of voting stock of the association held by persons other than the subsidiary holding company's mutual

holding company parent. This limitation does not apply to a transaction in which an underwriter purchases stock in connection with a public offering, or the purchase of stock by an employee stock ownership plan or other tax-qualified employee stock benefit plan which is exempt from the approval requirements under § 574.3(c)(1)(iv) of the Office's regulations.

In the event a person acquires stock in violation of this section, all stock beneficially owned in excess of 10 percent shall be considered “excess stock” and shall not be counted as stock entitled to vote and shall not be voted by any person or counted as voting stock in connection with any matters submitted to the stockholders for a vote.

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Dated: May 25, 2007.

By the Office of Thrift Supervision.

**John M. Reich,**

*Director.*

[FR Doc. E7–12172 Filed 6–26–07; 8:45 am]

**BILLING CODE 6720–01–P**

**NATIONAL CREDIT UNION ADMINISTRATION****12 CFR Part 701****RIN 3133–AD37****Purchase, Sale, and Pledge of Eligible Obligations**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** NCUA proposes to amend its rule governing the purchase, sale, and pledge of eligible obligations, as a result of recommendations from its annual regulatory review process, by adding a conflict of interest provision substantially similar to the conflict of interest provision in NCUA's general lending rule. This addition is intended to help ensure that a federal credit union's (FCU) decisions regarding the purchase, sale, and pledge of eligible obligations are made with the FCU's best interests in mind.

**DATES:** Comments must be received on or before August 27, 2007.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *NCUA Web Site:* [http://www.ncua.gov/RegulationsOpinionsLaws/proposed\\_regs/proposed\\_regs.html](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html).

Follow the instructions for submitting comments.

- *E-mail:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your

name] Comments on Proposed Rule 701, Eligible Obligations" in the e-mail subject line.

- *Fax:* (703) 518-6319. Use the subject line described above for e-mail.

- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- *Hand Delivery/Courier:* Same as mail address.

**Public Inspection:** All public comments are available on the agency's website at <http://www.ncua.gov/RegulationsOpinionsLaws/comments> as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518-6546 or send an e-mail to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:**

Annette Tapia or Frank Kressman, Staff Attorneys, Office of General Counsel, at the above address or telephone (703) 518-6540.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The NCUA continually reviews its regulations to "update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions." NCUA Interpretive Rulings and Policy Statement (IRPS) 87-2, Developing and Reviewing Government Regulations. Under IRPS 87-2, NCUA conducts a rolling review of one-third of its regulations each year, involving both internal review and public comment. NCUA's 2006 review produced a recommendation to include a conflict of interest provision in the eligible obligations rule similar to the one in NCUA's general lending rule. 12 CFR 701.21(c)(8), 12 CFR 701.23.

**B. Discussion**

Generally, the eligible obligations rule implements the statutory provisions limiting the purchase, sale, and pledging of an eligible obligation, which is defined by the Board as a loan or group of loans. 12 U.S.C. 1757(13); 12 CFR 701.23. Subject to certain exceptions, the rule provides that an FCU may purchase its members' eligible obligations (i.e., loans made to a member by another lender) from any source as long as the loans are ones the FCU is empowered to grant, up to an amount equal to 5% of its unimpaired

capital and surplus. 12 CFR 701.23(b)(1). Exceptions in the rule include purchasing nonmember student and real estate secured loans for purposes of completing a loan pool for sale on the secondary market. In addition, loans purchased to complete a pool and loans purchased as part of an indirect lending or indirect leasing program are exempt from the 5% limit on eligible obligations.

The Board believes eligible obligation transactions, which involve the buying and selling of member loans, potentially present the same kinds of conflicts of interest as where an FCU is the original lender to its member. For that reason, the Board proposes to add a conflict of interest provision to the eligible obligations rule that is similar to the conflict provision in NCUA's general lending regulation. 12 CFR 701.21(c)(8)(i). The proposal would generally provide that an official, employee, or their immediate family members may not receive, directly or indirectly, any commission, fee or other compensation in connection with an eligible obligations transaction. The proposal would help ensure FCUs make decisions concerning the purchase and sale of eligible obligations based on appropriate business considerations rather than any personal benefit to insiders.

**C. Regulatory Procedures**

*Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). This rule only includes a conflict of interest provision that entails no greater regulatory burden. Accordingly, this proposed rule will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is required.

*Paperwork Reduction Act*

NCUA has determined that this rule will 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 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 proposed rule would not have a 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. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

*The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families*

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

*Agency Regulatory Goal*

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

**List of Subjects in 12 CFR Part 701**

Conflict of interests, Credit unions, Eligible obligations, Loans.

By the National Credit Union Administration Board on June 21, 2007.

**Mary Rupp,**

*Secretary of the Board.*

For the reasons discussed above, NCUA proposes to amend 12 CFR part 701 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 701.23 is amended by adding new paragraph (g) to read as follows:

**§ 701.23 Purchase, sale, and pledge of eligible obligations.**

\* \* \* \* \*

(g) (1) *Conflicts of interest.* No federal credit union official, employee, or their

immediate family member may receive, directly or indirectly, any compensation in connection with that credit union's purchase, sale, or pledge of an eligible obligation under the provisions of § 701.23.

(2) *Permissible payments.* This section does not prohibit:

(i) A federal credit union's payment of salary to employees;

(ii) A federal credit union's payment of an incentive or bonus to an employee based on the credit union's overall financial performance;

(iii) A federal credit union's payment of an incentive or bonus to an employee, other than a senior management employee, in connection with that credit union's purchase, sale or pledge of an eligible obligation. This payment is permissible if the board of directors establishes a written policy and internal controls for the incentive or bonus program and monitors compliance with the policy and controls at least annually; and

(iv) Payment by a person other than the federal credit union of compensation to a volunteer official, non-senior management employee, or their immediate family member, for a service or activity performed outside the credit union provided that the federal credit union, the official, employee, or their immediate family member has not made a referral.

(3) *Business associates and family members.* All transactions under this section with business associates or family members not specifically prohibited by paragraph (g)(1) of this section must be conducted at arm's length and in the interest of the federal credit union.

(4) *Definitions.* The definitions in § 701.21(c)(8)(ii) of this part apply to this section.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2007-28366; Airspace Docket 07-ASO-11]

#### Proposed Amendment of Class E Airspace; Mooresville, NC

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to amend Class E airspace at Mooresville,

NC. Two Copter Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) helicopter point in space approaches have been developed for Lowe's Mooresville Heliport, Mooresville, NC. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs and for Instrument Flight Rules (IFR) operations at Lowe's Mooresville Heliport. This action proposes to amend the Class E5 airspace for Mooresville, NC, to the south in order to include the point in space approaches serving Lowe's Mooresville Heliport.

**DATES:** Comments must be received on or before July 27, 2007.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2007-28366; Airspace Docket 07-ASO-11, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337.

**FOR FURTHER INFORMATION CONTACT:** Mark D. Ward, Manager, Airspace and Operations Branch, Eastern En Route and Oceanic Service Area, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5586.

#### 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 both docket numbers 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 Docket No. FAA-2007-28366/Airspace Docket No. 07-ASO-11." The postcard will be date/time stamped and returned to the commenter. All communications received 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 the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Document's Web page at <http://www.access.gpo.gov/nara/>. Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Mooresville, NC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.