

under paragraph (a)(5) of this section that require consideration of all relevant facts and circumstances, which include the extent to which:

- (i) The operations share resources such as management, employees, facilities, and equipment;
  - (ii) The operations are conducted in coordination with or reliance upon each other; and
  - (iii) The eligible borrower and legal entity are dependent upon each other for economic success.
- (4) Portfolio restrictions necessary to comply with paragraph (b) of this section and any board-defined limits on financing provided under this section; and
- (5) Reporting requirements necessary to comply with paragraph (c) of this section and any board-defined reporting on financing provided under this section.

Dated: May 20, 2008.

**Roland E. Smith,**

*Secretary, Farm Credit Administration Board.*  
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## **NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Parts 700, 704, 705, 707, 708b,  
711, 713, 716, 723, 760, and 792**

### **Technical Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** NCUA is amending a number of its regulations by making minor technical corrections and grammatical changes. The amendments delete duplicate words, add proper punctuations, and make other grammatically necessary corrections. The amendments are intended to provide helpful changes to NCUA's regulations.

**DATES:** This rule is effective May 28, 2008.

**FOR FURTHER INFORMATION CONTACT:** Justin M. Anderson, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone: (703) 518-6540.

### **SUPPLEMENTARY INFORMATION:**

#### **A. Background**

In 2007, NCUA internally reviewed its regulations as part of a publication process. NCUA used this opportunity to update and clarify existing regulations.

The 2007 review revealed that minor grammatical revisions to certain regulations would be helpful.

#### **B. Regulatory Changes**

This rule provides minor grammatical changes and will not cause any regulatory changes.

#### **C. Regulatory Procedures**

##### *Final Rule Under the Administrative Procedure Act*

Generally, the Administrative Procedure Act (APA) requires a federal agency to provide the public with notice and the opportunity to comment on agency rulemakings. The amendments in this rule are not substantive but technical in that they make minor corrections, merely provide clarification or alert users of the regulations to other legal requirements or limitations. The APA permits an agency to forego the notice and comment period under certain circumstances, such as when a rulemaking is technical and not substantive. NCUA finds good cause that notice and public comment are unnecessary under Section 553(b)(3)(B) of the APA. 5 U.S.C. 553(b)(3)(B). NCUA also finds good cause to dispense with the 30-day delayed effective date requirement under Section 553(d)(3) of the APA. 5 U.S.C. 553(d)(3). The rule will, therefore, be effective immediately upon publication.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (those credit unions under ten million dollars in assets). This rule provides minor, technical changes to certain sections of NCUA's regulations. This rule will not have a significant economic impact on a substantial number of small credit unions, and, therefore, a regulatory flexibility analysis is not 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 rule 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.

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

The 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, Public Law 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) (SBREFA) 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 SBREFA. As required by SBREFA, NCUA will file the appropriate reports with Congress and the Government Accountability Office so this rule may be reviewed.

#### **List of Subjects**

##### *12 CFR Part 700*

Credit unions.

##### *12 CFR Part 704*

Credit unions, Surety bonds.

##### *12 CFR Part 705*

Community development, Credit unions, Loan programs—housing and community development.

##### *12 CFR Part 707*

Advertising, Consumer protection, Credit unions, Reporting and recordkeeping requirements, Truth in savings.

##### *12 CFR Part 708b*

Credit unions, Mergers of credit unions, Reporting and recordkeeping requirements.

##### *12 CFR Part 711*

Credit unions.

##### *12 CFR Part 713*

Bonds, Credit unions, Insurance.

**12 CFR Part 716**

Bank deposit insurance, Consumer protection, Credit unions, Privacy.

**12 CFR Part 723**

Credit unions, Loan programs—business, Reporting and recordkeeping requirements.

**12 CFR Part 760**

Credit unions, Flood insurance, Mortgages.

**12 CFR Part 792**

Confidential business information, Freedom of information, Government employees, Privacy.

By the National Credit Union Administration Board on May 20, 2008.

**Mary Rupp,**

*Secretary of the Board.*

■ For the reasons discussed above, NCUA is amending 12 CFR parts 700, 704, 705, 707, 708b, 710, 711, 713, 716, 723, 760, and 792 as follows:

**PART 700—DEFINITIONS**

■ 1. The authority citation for part 700 continues to read as follows:

**Authority:** 12 U.S.C. 1752, 1757(6), 1766.

**§ 700.2 [Amended]**

■ 2. Section 700.2 is amended by removing the words “means a State” and adding in their place the words “means a state”, and by removing the word “Territories” and adding in its place the word “territories”.

**PART 704—CORPORATE CREDIT UNIONS**

■ 3. The authority citation for part 704 continues to read as follows:

**Authority:** 12 U.S.C. 1766(a), 1781, 1789.

**§ 704.8 [Amended]**

■ 4. Section 704.8(a)(4) is amended by removing the word “and” after the phrase “of this section;”.

**PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS**

■ 5. The authority citation for part 705 continues to read as follows:

**Authority:** 12 U.S.C. 1772C–1; 42 U.S.C. 9822 and 9822 note.

■ 6. Section 705.5(b)(1) introductory text is amended by revising the last sentence to read as follows:

**§ 705.5 Application for participation.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* A nonfederally insured credit union must include the following:

\* \* \* \* \*

**PART 707—TRUTH IN SAVINGS**

■ 7. The authority citation for part 707 continues to read as follows:

**Authority:** 12 U.S.C. 4311.

■ 8. Section 707.8 is amended by revising paragraph (c)(5) to read as follows:

**§ 707.8 Advertising.**

\* \* \* \* \*

(c) \* \* \*

(5) *Effect of fees.* A statement that fees could reduce the earnings on the account.

\* \* \* \* \*

**PART 708b—MERGERS OF FEDERALLY-INSURED CREDIT UNIONS; VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS**

■ 9. The authority citation for part 708b continues to read as follows:

**Authority:** 12 U.S.C. 1752(7), 1766, 1785, 1786, 1789.

**§ 708b.105 [Amended]**

■ 10. Section 708b.105(b) is amended by removing the word “Part” and adding in its place “part” in the first sentence.

**§ 708b.203 [Amended]**

■ 11. Section 708b.203(e)(1) is amended by removing the duplicate word “it” appearing after the words “credit union that”.

**§ 708b.301 [Amended]**

■ 12. Section 708b.301 is amended as follows:

■ A. Paragraph (c) is amended by adding a period after the parenthetical “(Insert name of independent entity and address)” in the first full paragraph beginning with “The credit union must”.

■ B. Paragraph (c) is further amended by removing the word “accounts” and adding in its place the word “account” after the words “if I use different” in the second full paragraph beginning with “I understand if”.

■ C. Paragraph (d)(5) is amended by removing the word “inset” and adding in its place the word “insert” in the parenthetical following the words “a majority voted” in the eighth paragraph beginning with “(insert “20% or more”)”.

**§ 708b.302 [Amended]**

■ 13. Section 708b.302 is amended as follows:

■ A. Paragraph (c) is amended by removing the word “accounts” and adding in its place the word “account” after the words “if I use different” in the second full paragraph beginning with “I Understand if”.

■ B. Paragraph (d)(5) is amended by removing the word “and” and adding in its place the word “an” before the words “entity independent” in the first full paragraph beginning with “The (insert name)”.

■ C. Paragraph (d)(5) is further amended by removing the word “inset” and adding in its place the word “insert” before the words “in favor of” in the eighth paragraph beginning with “(insert “20% or more”)”.

■ 14. Section 708b.303 is amended as follows:

■ A. Paragraph (b) is amended by revising the first sentence in the second full paragraph to read as set forth below.

■ B. Paragraph (c)(5) is amended by removing the word “and” and adding in its place the word “an” before the words “entity independent” in the first sentence.

**§ 708b.303 Conversion of insurance through merger.**

\* \* \* \* \*

(b) \* \* \*

I understand if the merger or conversion of the (insert name of merging credit union) into the (insert name of continuing credit union) is approved, the National Credit Union Administration share (deposit) insurance I now have, up to \$100,000, or possibly more if I use different account structures, will terminate upon the effective date of the conversion.

\* \* \*

\* \* \* \* \*

**PART 711—MANAGEMENT OFFICIAL INTERLOCKS**

■ 16. The authority citation for part 711 continues to read as follows:

**Authority:** 12 U.S.C. 1757 and 3201–3208.

**§ 711.2 [Amended]**

■ 17. Section 711.2(j) is amended by removing the italicized phrase “*Low and moderate-income*” and adding in its place the italicized phrase “*Low and moderate-income*”.

**PART 713—FIDELITY BOND AND INSURANCE COVERAGE FOR FEDERAL CREDIT UNIONS**

■ 18. The authority citation for part 713 continues to read as follows:

**Authority:** 12 U.S.C. 1761A, 1761B, 1766(a), 1766(h), 1789(a)(11).

**§ 713.4 [Amended]**

■ 19. Section 713.4(a) is amended by removing the words “Web site” and adding in its place the word “website”.

**PART 716—PRIVACY OF CONSUMER FINANCIAL INFORMATION**

■ 20. The authority citation for part 716 continues to read as follows:

**Authority:** 15 U.S.C. 6801 *et seq.*, 12 U.S.C. 1751 *et seq.*

**§ 716.3 [Amended]**

■ 21. Section 716.3 is amended as follows:

■ A. Paragraph (b)(2)(iii) is amended by removing the italicized words “web sites” and adding in their place the italicized word “websites” in the paragraph heading, removing the words “web site” and adding in their place the word “website” in the first sentence, and removing the word “form” and adding in its place with the word “from” after the words “not distract attention” in the first sentence.

■ B. Paragraph (e)(2)(iii) is amended by removing the parentheses from the sentence that begins “(The individual” and ends with “institutions involved).”

**PART 723—MEMBER BUSINESS LOANS**

■ 22. The authority citation for part 723 continues to read as follows:

**Authority:** 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

**§ 723.21 [Amended]**

■ 23. Section 723.21 is amended as follows:

■ A. In the definition of *Construction or development loan*, Example 4 is amended by removing the word “incoming” in the fourth sentence and adding in its place the word “income”.

■ B. The definition of *Net worth* is amended by removing the phrase “low income-designated” and adding in its place the phrase “low-income designated” in the fourth sentence.

**PART 760—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS**

■ 24. The authority citation for part 760 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1789; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

**§ 760.7 [Amended]**

■ 25. Section 760.7 is amended by removing the comma before the words “at any time during” and adding a comma after the words “not covered by flood insurance” in the first sentence.

**PART 792—REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT AND BY SUBPEONA; SECURITY PROCEDURES FOR CLASSIFIED INFORMATION**

■ 26. The authority citation for part 792 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552A, 552B; 12 U.S.C. 1752a(d), 1766, 1789, 1795f; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; E.O. 12958, 60 FR 19824, 3 CFR, 1995 Comp., p. 333.

**§ 792.10 [Amended]**

■ 27. Section 792.10(b) is amended by removing the words “which meets” and adding in their place the words “that meet” in the third sentence.

**§ 792.16 [Amended]**

■ 28. Section 792.16(a) is amended by adding a comma after the words “extends the time” and removing the comma after the words “with written notice” in the second sentence.

**§ 792.28 [Amended]**

■ 29. Section 792.28 is amended by moving the period outside the parenthetical “(in case of partial denials)” in the second sentence.

**§ 792.50 [Amended]**

■ 30. Section 792.50(a) is amended by removing the parenthetical phrase from the first sentence.

**§ 792.51 [Amended]**

■ 31. Section 792.51(b) is amended by removing the words “Personnel Office” wherever they appear in the fourth sentence and adding in their place the words “Office of Human Resources”.

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**DEPARTMENT OF DEFENSE****Office of the Secretary**

[DOD-2006-HA-0194; RIN 0720-AB07]

**32 CFR Part 199****TRICARE; Certain Survivors of Deceased Active Duty Members; and Adoption Intermediaries**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This rule confirms as final a January 2007 interim final rule which implements two provisions of the National Defense Authorization Act for Fiscal Year 2006 (NDAA FY06). First, Section 715 of the NDAA FY06 extends

the time frame certain dependents of active duty service members (ADSM) who die while on active duty for more than 30 days shall receive TRICARE medical benefits at active duty dependent payment rates. Second, Section 592 of the NDAA FY06 modifies the requirement for those intermediaries who provide adoption placements. Additionally, this final rule makes an administrative clarification to the following two eligibility provisions: those placed in the legal custody of a member or former member; and those placed in the home of a member or former member in anticipation of adoption. This clarification makes a distinction between the two groups and specifies that for placement into legal custody by court order, the court order must be for a period of 12 consecutive months.

**DATES:** *Effective Date:* This rule is effective June 27, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ann N. Fazzini, (303) 676-3803 for questions regarding Section 715 as it relates to the TRICARE Basic Program; and also questions regarding Section 592. Mr. Michael Kottyan, (303) 676-3520 for questions regarding Section 715 as it relates to the Extended Health Care Option (ECHO). Mr. John Leininger, (303) 676-3613, for questions regarding TRICARE Prime Remote. Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

**SUPPLEMENTARY INFORMATION:****Background**

I. In the **Federal Register** of January 19, 2007 (72 FR 2444), the Department of Defense published for public comment an interim final rule regarding: (1) Payment rates for dependents of deceased active duty service members; (2) Modification of requirement for certain intermediaries under certain authorities relating to adoptions; and, (3) Administrative change—court order/adoption placement. An overview of these three provision follows.

II. Payment Rates for Dependents of Deceased Active Duty Service Members. Dependents of active-duty members who died while on active duty have been always eligible for TRICARE; however, their payment rates/cost-sharing provisions have changed over time. Section 715 of the NDAA FY06 modified the cost-sharing provision for certain dependents of deceased active duty members. The reader is referred to the interim final rule published on January 19, 2007 (72 FR 2444), for