

create stratified credit risk positions whose performance is dependent upon an underlying pool of credit exposures, including loans and commitments.

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PART 741—REQUIREMENTS FOR INSURANCE

■ 13. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 14. In § 741.3, revise paragraph (a)(2) by adding a sentence between the first and second sentences to read as follows:

§ 741.3 Criteria.

* * * * *

(a) * * *
(2) * * * For purposes of this paragraph, if a state-chartered credit union conducts and documents an analysis that reasonably concludes an investment is at least investment grade, as defined in § 703.2 of this chapter, and the investment is otherwise permissible for Federal credit unions, that investment is not considered to be beyond those authorized by the Act or the NCUA Rules and Regulations. * * *

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 713

RIN 3133–AD98

Fidelity Bond and Insurance Coverage

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is adopting as a final rule, without change, the interim final rule that the Board issued in May 2012 that amended NCUA’s fidelity bond rule. The interim final rule removed references in the fidelity bond rule to NCUA’s former Regulatory Flexibility Program (RegFlex), which granted a RegFlex credit union broader authority to choose the deductible amount of its fidelity bond policy.

DATES: Effective December 13, 2012, the interim final rule published May 31, 2012, at 77 FR 31981, is adopted as final without change.

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

SUPPLEMENTARY INFORMATION: The NCUA Board (Board) is adopting as a final rule, without change, the interim final rule that the Board issued in May 2012 that amended NCUA’s fidelity bond rule.¹ The interim final rule removed references in the fidelity bond rule to NCUA’s former Regulatory Flexibility Program (RegFlex), which granted a RegFlex credit union broader authority to choose the deductible amount of its fidelity bond policy.² Specifically, the interim final rule amended the standard used for granting authority to a federal credit union (FCU) to choose an increased deductible amount. Before the Board issued the interim final rule, the standard was based on an FCU’s assets and status as a RegFlex FCU. The standard used after the interim final rule is based on an FCU’s assets, CAMEL ratings, and capital level. The new standard is also used by NCUA in other rules affected by the elimination of RegFlex.

I. Background
II. Comments
III. Regulatory Procedures

I. Background

What did the interim final rule change and why is NCUA adopting this final rule?

In issuing a proposed rule in 2011 to remove part 742 from NCUA’s regulations and eliminate the RegFlex Program,³ NCUA inadvertently overlooked references to RegFlex in its fidelity bond rule.⁴ At that time, the fidelity bond rule established a formula for calculating the maximum deductible an FCU could carry on its fidelity bond based partly on the FCU’s asset size. The rule set a cap of \$200,000, but permitted RegFlex FCUs with assets in excess of \$1 million a higher maximum deductible of up to \$1 million.⁵ With the issuance of the final rule to eliminate RegFlex, the NCUA Board also issued an interim final rule to amend the fidelity bond rule.⁶

The interim final rule changed the regulatory standard for permitting an FCU to have an increased deductible on its fidelity bond. As noted, the standard used before the interim final rule was that a RegFlex FCU with assets in excess of \$1 million had such authority. The

¹ 77 FR 31981 (May 31, 2012).

² The Board established RegFlex in 2002. 66 FR 58656 (Nov. 23, 2001). RegFlex relieved FCUs from certain regulatory restrictions and granted them additional powers if they demonstrated sustained superior performance as measured by CAMEL rating and net worth classification.

³ 76 FR 81421 (Dec. 28, 2011).

⁴ 12 CFR 713.6.

⁵ 12 CFR 713.6(a)(1), (c).

⁶ 77 FR 31981 (May 31, 2012).

standard used after the interim final rule is that such authority is granted to an FCU with assets in excess of \$1 million that is, among other things, well capitalized.⁷

Specifically, the interim final rule permits an FCU to choose a maximum deductible amount for its fidelity bond coverage of \$1 million if the FCU has: (1) Received a composite CAMEL rating of “1” or “2” during its last two full examinations and (2) maintained a “well capitalized” net worth classification for the immediately preceding six quarters or has remained “well capitalized” for the immediately preceding six quarters after applying the applicable risk-based net worth requirement.

Once a year, an FCU meeting the interim final rule’s well capitalized standard must review its continued eligibility for a higher deductible under the rule, which is the same approach applied by the Board when it adopted the fidelity bond provisions in 2005.⁸ An FCU’s continued eligibility will be based on its asset size as reflected in its most recent year-end 5300 call report and its net worth as reflected in that same report. If an FCU that previously qualified for the higher deductible limit has a decrease in assets based on its most recent year-end 5300 call report or its net worth has decreased so that it would no longer qualify under the well capitalized standard in the fidelity bond rule, then it must obtain the coverage otherwise required by Part 713 with an appropriate deductible. A similar result occurs if an FCU meets the assets threshold and its net worth continues to qualify it under the well capitalized standard, but it has failed to receive a CAMEL rating of “1” or “2” during its most recent examination report.

II. Comments

NCUA received no written responses to its request for comment on the interim final rule.⁹ Accordingly, the NCUA Board adopts as final, without change, the interim final rule published in May 2012.¹⁰

III. Regulatory Procedures

Regulatory Flexibility Act

NCUA must prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). The final rule reframes a

⁷ See 70 FR 61713 (Oct. 26, 2005) for a broader perspective of the regulatory history of part 713.

⁸ Id. at 61714.

⁹ 77 FR 31981 (May 31, 2012).

¹⁰ Id.

standard for FCUs in complying with the fidelity bond deductible requirements. NCUA has determined this rule will not have a significant economic impact on a substantial number of small credit unions.

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. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This 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 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 final 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

When NCUA issues a final rule, as defined in Section 551 of the Administrative Procedure Act, it triggers a reporting requirement for congressional review of agency rules under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (SBREFA). The Office of Management and Budget has determined that this rule is not a major rule for purposes of SBREFA.

List of Subjects in 12 CFR Part 713

Credit unions, Insurance, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 6, 2012.

Mary Rupp,

Secretary of the Board.

■ For the reasons discussed above, the National Credit Union Administration adopts as final, without change, the interim final rule published at 77 FR 31981 (May 31, 2012).

[FR Doc. 2012–30075 Filed 12–12–12; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS CORONADO (LCS 4) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective December 13, 2012 and is applicable beginning December 4, 2012.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jocelyn Loftus-Williams, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR Part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS CORONADO (LCS 4) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a

naval ship: Annex I paragraph 2(a)(i), pertaining to the location of the forward masthead light at a height not less than 12 meters above the hull; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(c), pertaining to the task light's horizontal distance from the fore and aft centerline of the vessel in the athwartship direction; and Rule 21(a), pertaining to the arc of visibility of the aft masthead light. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table One by adding, in alpha numerical order by vessel number, an entry for USS CORONADO (LCS 4);

■ B. In Table Four, Paragraph 15 by adding, in alpha numerical order by vessel number, an entry for USS CORONADO (LCS 4);

■ C. In Table Four, Paragraph 16 by adding, in alpha numerical order by vessel number, an entry for USS CORONADO (LCS 4); and

■ D. In Table Five by adding, in alpha numerical order by vessel number, an