

By the National Credit Union Administration Board on January 10, 2013.
Mary Rupp,
Secretary of the Board.

For the reasons set forth above, 12 CFR parts 700, 701, 741, 747, and 750 are amended 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.

- 2. Amend § 700.2 by adding a new definition of “troubled condition” in alphabetical order to read as follows:

§ 700.2 Definitions.

* * * * *

Troubled condition means:

(1) In the case of an insured natural person credit union:

(i) A federal credit union that has been assigned a 4 or 5 CAMEL composite rating by NCUA; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 CAMEL composite rating by either NCUA, after an on-site contact, or its state supervisor; or

(iii) A federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, that remains outstanding and unextinguished.

(2) In the case of an insured corporate credit union:

(i) A federal credit union that has been assigned a 4 or 5 Corporate Risk Information System rating by NCUA in either the Financial Risk or Risk Management composites; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 Corporate Risk Information System rating by either NCUA, after an on-site contact, or its state supervisor in either the Financial Risk or Risk Management composites; or

(iii) A federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, that remains outstanding and unextinguished.

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PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

- 3. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761A, 1761B, 1766, 1767, 1782, 1784, 1786, 1787, 1789, section 701.6 is also authorized by 15 U.S.C. 1601, et seq.;

42 U.S.C. 1981 and 3601–3610, section 701.35 is also authorized by 42 U.S.C. 4311–4312.

- 4. Revise § 701.14(b)(3) and (b)(4) to read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(b) * * *

(3) In the case of an insured natural person credit union, *Troubled condition* means:

(i) A federal credit union that has been assigned a 4 or 5 CAMEL composite rating by NCUA; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 CAMEL composite rating by either NCUA, after an on-site contact, or its state supervisor; or

(iii) A federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, that remains outstanding and unextinguished.

(4) In the case of an insured corporate credit union, *Troubled condition* means:

(i) A federal credit union that has been assigned a 4 or 5 Corporate Risk Information System rating by NCUA in either the Financial Risk or Risk Management composites; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 Corporate Risk Information System rating by either NCUA, after an on-site contact, or its state supervisor in either the Financial Risk or Risk Management composites; or

(iii) A federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, that remains outstanding and unextinguished.

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PART 741—REQUIREMENTS FOR INSURANCE

- 5. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781–1790, and 1790d. Section 741.4 is also authorized by 31 U.S.C. 3717.

- 6. Amend § 741.205 by removing the last two sentences and adding one sentence in its place to read as follows:

§ 741.205 Reporting requirements for credit unions that are newly chartered or in troubled condition.

* * * NCUA will consult with the state supervisor before making its determination. NCUA will notify the

state supervisor of its approval/disapproval no later than the time that it notifies the affected individual.

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTGATIONS

- 7. The authority citation for part 747 continues to read as follows:

Authority: 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787, 1790a, 1790d; 42 U.S.C. 4012a; Pub. L. 101–410; Pub. L. 104–134; Pub. L. 109–351; 120 Stat. 1966.

- 8. Amend § 747.901 by removing “§ 701.14 of this chapter” at the end of the first sentence and adding in its place “§ 700.2 of this chapter”.

PART 750—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

- 9. The authority citation for part 750 continues to read as follows:

Authority: 12 U.S.C. 1786(t).

- 10. Amend § 750.1 as follows:

■ a. Revise paragraphs (e)(1)(ii)(C), (D), and (E); and

■ b. Remove paragraph (l).

§ 750.1 Definitions.

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(ii) * * *

(C) The federally insured credit union is in troubled condition as defined in § 700.2(j) of this chapter; or

(D) In the case of a corporate credit union, the federally insured credit union is undercapitalized as defined in § 704.4 of this chapter; or

(E) The federally insured credit union is subject to a proceeding to terminate or suspend its share insurance; and

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE15

Treasury Tax and Loan Depositaries; Depositaries and Financial Agents of the Government

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is making technical amendments to NCUA’s regulation regarding share insurance on various kinds of treasury accounts. The technical amendments

conform the regulation to changes made to NCUA's standard maximum share insurance amount (SMSIA) by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Specifically, the Dodd-Frank Act increased the SMSIA from \$100,000 to \$250,000.

DATES: The final rule is effective on January 18, 2013.

FOR FURTHER INFORMATION CONTACT: John H. Brolin, Staff Attorney, or Frank Kressman, Associate General Counsel, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 518-6438.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Final Rule
II. Regulatory Procedures

I. Background and Purpose of the Final Rule

Why is the NCUA Board issuing this rule?

Section 335 of the Dodd-Frank Act¹ amended the Federal Credit Union Act to make permanent an increase in the SMSIA to \$250,000. In September 2010, the Board issued a final rule² which amended the SMSIA in NCUA's part 745 share insurance regulations to conform the regulatory language to the Dodd-Frank Act statutory change. The Board is now amending § 701.37(c), which still reflects the former \$100,000 SMSIA, to update it to reflect the current \$250,000 SMSIA.

II. Regulatory Procedures

Final Rule

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 non-substantive and technical. They make minor changes which are statutorily required by the Dodd-Frank Act. The APA permits an agency to forego the notice and comment period under certain circumstances, such as when a rulemaking is technical and non-substantive. NCUA finds that, in this instance, notice and public comment are unnecessary under section 553(b)(3)(B) of the APA.³ NCUA also finds good cause to dispense with the 30-day delayed effective date requirement under section 553(d)(3) of the APA.⁴

The rule, therefore, will 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 (primarily those under \$10 million in assets). NCUA has determined these technical amendments will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.⁵ For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. NCUA has determined that the technical amendments in this final rule do not increase the paperwork requirements under PRA or 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 final rule will 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 final 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 final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.⁶

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996⁷ (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 Administrative Procedure Act.⁸ NCUA has submitted this rule to the Office of Management and Budget for it to determine if the final rule is a "major rule" for purposes of SBREFA. NCUA does not believe the rule is major.

List of Subjects in 12 CFR Part 701

Credit unions; Share insurance.

By the National Credit Union Administration Board on January 10, 2013.

Mary Rupp,

Secretary of the Board.

For the reasons discussed above, the NCUA Board amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION 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, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601-3610. Section 701.35 is also authorized by 42 U.S.C. 4311-4312.

§ 701.37 [Amended]

■ 2. Amend § 701.37(c) by removing the term "\$100,000" wherever it appears and adding in its place the term "\$250,000".

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 741

RIN 3133-AE09

Designation of Low-Income Status; Acceptance of Secondary Capital Accounts by Low-Income Designated Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending its low-income credit unions regulation by extending the time period in which a federal credit union (FCU) may accept a low-income designation. Under the current rule, an FCU that receives notice from NCUA of its

¹ Public Law 111-203; 124 Stat. 1376, 1540 (July 21, 2010).

² 75 FR 53841 (Sept. 2, 2010).

³ 5 U.S.C. 553(b)(3)(B).

⁴ 5 U.S.C. 553(d)(3).

⁵ 44 U.S.C. 3507(d); 5 CFR part 1320.

⁶ Public Law 105-277, 112 Stat. 2681 (1998).

⁷ Public Law 104-121, 110 Stat. 857 (1996).

⁸ 5 U.S.C. 551.