

(iv) the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

(2) the term “net worth”—

(A) with respect to any insured credit union, means the credit union’s retained earnings balance, as determined under generally accepted accounting principles; and

(B) with respect to a credit union that serves predominantly low-income members, as defined by the Board, includes secondary capital accounts that are—

(i) uninsured; and

(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

(3) the term “associated member” means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

(d) Effect on existing loans

An insured credit union that has, on August 7, 1998, a total amount of outstanding member business loans that exceeds the amount permitted under subsection (a) shall, not later than 3 years after August 7, 1998, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a).

(e) Consultation and cooperation with State credit union supervisors

In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

(June 26, 1934, ch. 750, title I, §107A, as added Pub. L. 105-219, title II, §203(a), Aug. 7, 1998, 112 Stat. 920; amended Pub. L. 115-174, title I, §105(a), May 24, 2018, 132 Stat. 1301.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c)(1)(B)(i). Pub. L. 115-174 struck out “that is the primary residence of a member” after “dwelling”.

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Pub. L. 115-174, title I, §105(b), May 24, 2018, 132 Stat. 1301, provided that: “Nothing in this section [amending this section] or the amendment made by this section shall preclude the National Credit Union Administration from treating an extension of credit that is fully secured by a lien on a 1- to 4-family dwelling that is not the primary residence of a member as a member business loan for purposes other than the member business loan limitation requirements under section 107A of the Federal Credit Union Act (12 U.S.C. 1757a).”

STUDY AND REPORT

Pub. L. 105-219, title II, §203(b), Aug. 7, 1998, 112 Stat. 922, required the Secretary to conduct a study of mem-

ber business lending by insured credit unions, with a final report to be sent to Congress not later than 12 months after Aug. 7, 1998.

§ 1758. Bylaws

In order to simplify the organization of Federal credit unions the Board shall from time to time cause to be prepared a form of organization certificate and a form of bylaws, consistent with this chapter, which shall be used by Federal credit union incorporators, and shall be supplied to them on request. At the time of presenting the organization certificate the incorporators shall also submit proposed bylaws to the Board for its approval.

(June 26, 1934, ch. 750, title I, §108, formerly §8, 48 Stat. 1219; 1947 Reorg. Plan No. 1, §401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§1, 2, 62 Stat. 1091; renumbered §9 and amended Pub. L. 86-354, §1, Sept. 22, 1959, 73 Stat. 631; Pub. L. 91-206, §2(1), Mar. 10, 1970, 84 Stat. 49; renumbered title I, §108, Pub. L. 91-468, §1(2), Oct. 19, 1970, 84 Stat. 994; amended Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681.)

Editorial Notes

AMENDMENTS

1978—Pub. L. 95-630 substituted “Board” for “Administrator” in two places, and “its approval” for “his approval”.

1970—Pub. L. 91-206 substituted “Administrator” for “Director” in two places.

1959—Pub. L. 86-354 substituted “from time to time” for “, upon the passage of this Act,”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

Executive Documents

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and Governor thereof, generally, see notes set out under section 1751 of this title.

Functions of Governor of Farm Credit Administration under this section transferred to Federal Deposit Insurance Corporation by Reorg. Plan No. 1 of 1947.

§ 1759. Membership

(a) In general

Subject to subsection (b), Federal credit union membership shall consist of the incorporators and such other persons and incorporated and unincorporated organizations, to the extent permitted by rules and regulations prescribed by the Board, as may be elected to membership and as such shall each, subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member.

(b) Membership field

Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in one of the following categories:

(1) Single common-bond credit union

One group that has a common bond of occupation or association.

(2) Multiple common-bond credit union

More than one group—

(A) each of which has (within the group) a common bond of occupation or association; and

(B) the number of members, each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).

(3) Community credit union

Persons or organizations within a well-defined local community, neighborhood, or rural district.

(c) Exceptions**(1) Grandfathered members and groups****(A) In general**

Notwithstanding subsection (b)—

(i) any person or organization that is a member of any Federal credit union as of August 7, 1998, may remain a member of the credit union after August 7, 1998; and

(ii) a member of any group whose members constituted a portion of the membership of any Federal credit union as of August 7, 1998, shall continue to be eligible to become a member of that credit union, by virtue of membership in that group, after August 7, 1998.

(B) Successors

If the common bond of any group referred to in subparagraph (A) is defined by any particular organization or business entity, subparagraph (A) shall continue to apply with respect to any successor to the organization or entity.

(2) Exception for underserved areas

Notwithstanding subsection (b), in the case of a Federal credit union, the field of membership category of which is described in subsection (b)(2), the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—

(A) the Board determines that the local community, neighborhood, or rural district—

(i) is an “investment area”, as defined in section 4702(16) of this title, and meets such additional requirements as the Board may impose; and

(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 1813 of this title), by other depository institutions (as defined in section 461(b)(1)(A) of this title); and

(B) the credit union establishes and maintains an office or facility in the local com-

munity, neighborhood, or rural district at which credit union services are available.

(d) Multiple common-bond credit union group requirements**(1) Numerical limitation**

Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership category of a credit union described in subsection (b)(2).

(2) Exceptions

In the case of any Federal credit union, the field of membership category of which is described in subsection (b)(2), the numerical limitation in paragraph (1) of this subsection shall not apply with respect to—

(A) any group that the Board determines, in writing and in accordance with the guidelines and regulations issued under paragraph (3), could not feasibly or reasonably establish a new single common-bond credit union, the field of membership category of which is described in subsection (b)(1) because—

(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

(ii) the group does not meet the criteria that the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

(iii) the group would be unlikely to operate a safe and sound credit union;

(B) any group transferred from another credit union—

(i) in connection with a merger or consolidation recommended by the Board or any appropriate State credit union supervisor based on safety and soundness concerns with respect to that other credit union; or

(ii) by the Board in the Board's capacity as conservator or liquidating agent with respect to that other credit union; or

(C) any group transferred in connection with a voluntary merger, having received conditional approval by the Administration of the merger application prior to October 25, 1996, but not having consummated the merger prior to October 25, 1996, if the merger is consummated not later than 180 days after August 7, 1998.

(3) Regulations and guidelines

The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria that the Board will apply in determining under this subsection whether or not an additional group may be included within the field of membership category of an existing credit union described in subsection (b)(2).

(e) Additional membership eligibility provisions**(1) Membership eligibility limited to immediate family or household members**

No individual shall be eligible for membership in a credit union on the basis of the relationship of the individual to another person who is eligible for membership in the credit union, unless the individual is a member of the immediate family or household (as those terms are defined by the Board, by regulation) of the other person.

(2) Retention of membership

Except as provided in section 1764 of this title, once a person becomes a member of a credit union in accordance with this subchapter, that person or organization may remain a member of that credit union until the person or organization chooses to withdraw from the membership of the credit union.

(f) Criteria for approval of expansion of multiple common-bond credit unions**(1) In general**

The Board shall—

(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

(B) if the formation of a separate credit union by the group is not practicable or consistent with the standards referred to in subparagraph (A), require the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

(2) Approval criteria

The Board may not approve any application by a Federal credit union, the field of membership category of which is described in subsection (b)(2) to include any additional group within the field of membership of the credit union (or an application by a Federal credit union described in subsection (b)(1) to include an additional group and become a credit union described in subsection (b)(2)), unless the Board determines, in writing, that—

(A) the credit union has not engaged in any unsafe or unsound practice (as defined in section 1786(b) of this title) that is material during the 1-year period preceding the date of filing of the application;

(B) the credit union is adequately capitalized;

(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

(D) any potential harm that the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed

in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

(E) the credit union has met such additional requirements as the Board may prescribe, by regulation.

(g) Regulations required for community credit unions**(1) Definition of well-defined local community, neighborhood, or rural district**

The Board shall prescribe, by regulation, a definition for the term “well-defined local community, neighborhood, or rural district” for purposes of—

(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3); and

(B) establishing the criteria applicable with respect to any such determination.

(2) Scope of application

The definition prescribed by the Board under paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, that is filed with the Board after August 7, 1998.

(June 26, 1934, ch. 750, title I, § 109, formerly § 9, 48 Stat. 1219; July 31, 1946, ch. 711, § 2, 60 Stat. 744; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091; renumbered § 10 and amended Pub. L. 86-354, § 1, Sept. 22, 1959, 73 Stat. 631; Pub. L. 91-206, § 2(1), Mar. 10, 1970, 84 Stat. 49; renumbered title I, § 109, Pub. L. 91-468, § 1(2), Oct. 19, 1970, 84 Stat. 994; amended Pub. L. 93-383, title VII, § 722, Aug. 22, 1974, 88 Stat. 719; Pub. L. 95-630, title V, § 502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 105-219, title I, §§ 101-103, Aug. 7, 1998, 112 Stat. 914-917; Pub. L. 109-351, title VII, § 726(9), Oct. 13, 2006, 120 Stat. 2002.)

Editorial Notes**AMENDMENTS**

2006—Subsec. (c)(2)(A)(i). Pub. L. 109-351 made technical amendment to reference in original act which appears in text as reference to section 4702(16) of this title.

1998—Subsec. (a). Pub. L. 105-219, § 101(1)(A), designated existing provisions as subsec. (a) and inserted heading and “Subject to subsection (b),” before “Federal credit union membership shall consist of”.

Pub. L. 105-219, § 101(1)(B), which directed the amendment of subsec. (a) by striking out “, except that Federal credit union membership shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district” after “directors”, was executed by striking out such language which began with a semicolon rather than a comma after “directors” to reflect the probable intent of Congress.

Subsecs. (b) to (e). Pub. L. 105-219, § 101(2), added subsecs. (b) to (e).

Subsec. (f). Pub. L. 105-219, § 102, added subsec. (f).

Subsec. (g). Pub. L. 105-219, § 103, added subsec. (g).

1978—Pub. L. 95-630 substituted “Board” for “Administrator”.

1974—Pub. L. 93-383 substituted “a uniform entrance fee if required by the board of directors” for “the entrance fee”.

1970—Pub. L. 91-206 substituted “Administrator” for “Director”.

1959—Pub. L. 86-354 substituted “persons” for “person” before “designated”.

1946—Act July 31, 1946, inserted sentence at end permitting a Federal credit union to issue shares in joint tenancy with a right of survivorship.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

REPORT AND CONGRESSIONAL REVIEW REQUIREMENT FOR CERTAIN REGULATIONS

Pub. L. 105-219, title II, § 205, Aug. 7, 1998, 112 Stat. 923, provided that: “A regulation prescribed by the Board [National Credit Union Administration Board] shall be treated as a major rule for purposes of chapter 8 of title 5, United States Code, if the regulation defines, or amends the definition of—

“(1) the term ‘immediate family or household’ for purposes of section 109(e)(1) of the Federal Credit Union Act [12 U.S.C. 1759(e)(1)] (as added by section 101 of this Act); or

“(2) the term ‘well-defined local community, neighborhood, or rural district’ for purposes of section 109(g) of the Federal Credit Union Act (as added by section 103 of this Act).”

§ 1760. Members’ meetings

The fiscal year of all Federal credit unions shall end December 31. The annual meeting of each Federal credit union shall be held at such place as its bylaws shall prescribe. Special meetings may be held in the manner indicated in the bylaws. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held, no member shall have more than one vote.

(June 26, 1934, ch. 750, title I, § 110, formerly § 10, 48 Stat. 1219; renumbered § 11, Pub. L. 86-354, § 1, Sept. 22, 1959, 73 Stat. 631; amended Pub. L. 88-150, § 1, Oct. 17, 1963, 77 Stat. 270; renumbered title I, § 110, Pub. L. 91-468, § 1(2), Oct. 19, 1970, 84 Stat. 994; amended Pub. L. 97-320, title V, § 519, Oct. 15, 1982, 96 Stat. 1531.)

Editorial Notes

AMENDMENTS

1982—Pub. L. 97-320 struck out “at such time during the following January, February, or March and” after “shall be held”, and “by him” after “shares held”.

1963—Pub. L. 88-150 substituted “during the following January, February, or March” for “during the month of the following January”.

§ 1761. Management

(a) Board of directors, credit committee, and supervisory committee; election to board

The management of a Federal credit union shall be by a board of directors, a supervisory committee, and where the bylaws so provide, a credit committee. The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy occurring on

the board shall be filled until the next annual election by appointment by the remainder of the directors.

(b) Membership on supervisory committee; names and addresses of officers and committee members

The supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the compensated officer of the board. A record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers, shall be filed with the Administration within ten days after their election or appointment.

(c) Compensation

No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.

(June 26, 1934, ch. 750, title I, § 111, formerly § 11, 48 Stat. 1219; June 15, 1940, ch. 366, 54 Stat. 398; July 31, 1946, ch. 711, §§ 3-6, 60 Stat. 745; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, § 1, 2, 62 Stat. 1091; Oct. 25, 1949, ch. 713, § 2, 63 Stat. 890; June 30, 1954, ch. 426, § 1, 68 Stat. 335; Aug. 24, 1954, ch. 905, § 1, 2, 68 Stat. 792; renumbered § 12 and amended Pub. L. 86-354, § 1, Sept. 22, 1959, 73 Stat. 632; Pub. L. 88-353, § 2, July 2, 1964, 78 Stat. 269; Pub. L. 91-206, § 2(3), Mar. 10, 1970, 84 Stat. 49; renumbered title I, § 111, Pub. L. 91-468, § 1(2), Oct. 19, 1970, 84 Stat. 994; amended Pub. L. 93-495, title I, § 116, Oct. 28, 1974, 88 Stat. 1507; Pub. L. 95-630, title V, § 502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 97-320, title V, § 520, Oct. 15, 1982, 96 Stat. 1531.)

Editorial Notes

AMENDMENTS

1982—Pub. L. 97-320 substituted provisions divided into subsecs. (a), (b), and (c) relating to the management of a Federal credit union, including the board of directors, credit and supervisory committees, and the matter of their compensation, for provisions which read as follows: “The business affairs of a Federal credit union shall be managed by a board of not less than five directors, and a credit committee of not less than three members, all to be elected at the annual members’ meeting by and from the members, and by a supervisory committee of not less than three members nor more than five members, one of whom may be a director other than the treasurer, to be appointed by the board. Any vacancy occurring in the supervisory committee shall be filled in the same manner as original appointments to such committee. All members of the board and of such committees shall hold office for such terms, respectively, as the bylaws may provide. A record of the names and addresses of the members of the board and such committees and of the officers of the credit union shall be filed with the Administration within ten days after their election or appointment. No member of the board or of either such committee shall, as such, be compensated: *Provided, however*, That reasonable health, accident, and similar insurance protection shall not be considered compensation under regulations promulgated by the Board.”