

(d) Administration acceptance of State board reports; reports of Board furnished to State board

The Administration may accept any report of examination made by or to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of examination made on behalf of the Board.

(e) Flood insurance compliance by insured credit unions

(1) Examination

The Board shall, during each examination conducted under this section, determine whether the insured credit union is complying with the requirements of the national flood insurance program.

(2) Report

(A) Requirement

Not later than 1 year after September 23, 1994, and biennially thereafter for the next 4 years, the Board shall submit a report to the Congress on compliance by insured credit unions with the requirements of the national flood insurance program.

(B) Contents

The report shall include a description of the methods used to determine compliance, the number of insured credit unions examined during the reporting year, a listing and total number of insured credit unions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.

(f) Access to liquidity

The Board shall—

(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and

(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.

(g) Sharing information with Federal reserve banks

The Board shall, for the purpose of facilitating insured credit unions' access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board's reports of examination.

(June 26, 1934, ch. 750, title II, § 204, as added Pub. L. 91-468, §1(3), Oct. 19, 1970, 84 Stat. 1001; amended Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 101-73, title IX, §915(a), Aug. 9, 1989, 103 Stat. 486; Pub. L. 103-325, title V, §529(b), Sept. 23, 1994, 108 Stat. 2266; Pub. L. 105-219, title III, §303, Aug. 7, 1998, 112 Stat. 934; Pub. L. 109-351, title VII, §726(13), Oct. 13, 2006, 120 Stat. 2002.)

Editorial Notes

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-351 substituted “such other powers” for “such others powers”.

1998—Subsecs. (f), (g). Pub. L. 105-219 added subsecs. (f) and (g).

1994—Subsec. (e). Pub. L. 103-325 added subsec. (e).

1989—Subsec. (b). Pub. L. 101-73, §915(a)(1), inserted “or with other types of investigations to determine compliance with applicable law and regulations,” after “insured credit unions.”

Pub. L. 101-73, §915(a)(2), which directed the insertion of “and to exercise such others powers as are set forth in section 1786(p) of this title” after “subpena duces tecum”, was executed by making the insertion after “subpenas duces tecum”, as the probable intent of Congress.

1978—Pub. L. 95-630 substituted “Board” for “Administrator” wherever appearing, and “it” and “its” for “him” and “his”, respectively, where appropriate.

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.

§ 1785. Requirements governing insured credit unions

(a) Insurance logo

(1) Insured credit unions

(A) In general

Each insured credit union shall display at each place of business maintained by that credit union a sign or signs relating to the insurance of the share accounts of the institution, in accordance with regulations to be prescribed by the Board.

(B) Statement to be included

Each sign required under subparagraph (A) shall include a statement that insured share accounts are backed by the full faith and credit of the United States Government.

(2) Regulations

The Board shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

(3) Penalties

For each day that an insured credit union continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than \$100, which the Board may recover for its use.

(b) Restrictions

(1) Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board—

(A) merge or consolidate with any non-insured credit union or institution;

(B) assume liability to pay any member accounts in, or similar liabilities of, any non-insured credit union or institution;

(C) transfer assets to any noninsured credit union or institution in consideration of the assumption of liabilities for any portion of the

member accounts in such insured credit union; or

(D) convert into a noninsured credit union or institution.

(2) CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), an insured credit union may convert to a mutual savings bank or savings association (if the savings association is in mutual form), as those terms are defined in section 1813 of this title, without the prior approval of the Board, subject to the requirements and procedures set forth in the laws and regulations governing mutual savings banks and savings associations.

(B) CONVERSION PROPOSAL.—A proposal for a conversion described in subparagraph (A) shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on that date or by written ballot to be filed on or before that date), by a majority of the directors of the insured credit union. Approval of the proposal for conversion shall be by the affirmative vote of a majority of the members of the insured credit union who vote on the proposal.

(C) NOTICE OF PROPOSAL TO MEMBERS.—An insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) shall submit notice to each of its members who is eligible to vote on the matter of its intent to convert—

(i) 90 days before the date of the member vote on the conversion;

(ii) 60 days before the date of the member vote on the conversion; and

(iii) 30 days before the date of the member vote on the conversion.

(D) NOTICE OF PROPOSAL TO BOARD.—The Board may require an insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) to submit a notice to the Board of its intent to convert during the 90-day period preceding the date of the completion of the conversion.

(E) INAPPLICABILITY OF CHAPTER UPON CONVERSION.—Upon completion of a conversion described in subparagraph (A), the credit union shall no longer be subject to any of the provisions of this chapter.

(F) LIMIT ON COMPENSATION OF OFFICIALS.—

(i) IN GENERAL.—No director or senior management official of an insured credit union may receive any economic benefit in connection with a conversion of the credit union as described in subparagraph (A), other than—

(I) director fees; and

(II) compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

(ii) SENIOR MANAGEMENT OFFICIAL.—For purposes of this subparagraph, the term “senior management official” means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by

the appropriate Federal banking agency pursuant to section 1831i(f) of this title).

(G) CONSISTENT RULES.—

(i) IN GENERAL.—Not later than 6 months after August 7, 1998, the Administration shall promulgate final rules applicable to charter conversions described in this paragraph that are consistent with rules promulgated by other financial regulators, including the Office of the Comptroller of the Currency. The rules required by this clause shall provide that charter conversion by an insured credit union shall be subject to regulation that is no more or less restrictive than that applicable to charter conversions by other financial institutions.

(ii) OVERSIGHT OF MEMBER VOTE.—The member vote concerning charter conversion under this paragraph shall be administered by the Administration, and shall be verified by the Federal or State regulatory agency that would have jurisdiction over the institution after the conversion. If either the Administration or that regulatory agency disapproves of the methods by which the member vote was taken or procedures applicable to the member vote, the member vote shall be taken again, as directed by the Administration or the agency.

(3) Except with the prior written approval of the Board, no insured credit union shall merge or consolidate with any other insured credit union or, either directly or indirectly, acquire the assets of, or assume liability to pay any member accounts in, any other insured credit union.

(c) Considerations for waiver or enforcement of restrictions

In granting or withholding approval or consent under subsection (b) of this section, the Board shall consider—

(1) the history, financial condition, and management policies of the credit union;

(2) the adequacy of the credit union's reserves;

(3) the economic advisability of the transaction;

(4) the general character and fitness of the credit union's management;

(5) the convenience and needs of the members to be served by the credit union; and

(6) whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

(d) Prohibition

(1) In general

Except with prior written consent of the Board—

(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

(2) Minimum 10-year prohibition period for certain offenses

(A) In general

If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

(i) an offense under—

(I) section 215, 656, 657, 1005, 1006, 1007, 1008,¹ 1014, 1032, 1344, 1517, 1956, or 1957 of title 18; or

(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

(B) Exception by order of sentencing court

(i) In general

On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

(ii) Period for filing

A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

(3) Penalty

Whoever knowingly violates paragraph (1) or (2) shall be fined not more than \$1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.

(4) Exceptions

(A) Certain older offenses

(i) In general

With respect to an individual, paragraph (1) shall not apply to an offense if—

(I) it has been 7 years or more since the offense occurred; or

(II) the individual was incarcerated with respect to the offense and it has been 5 years or more since the individual was released from incarceration.

(ii) Offenses committed by individuals 21 or younger

For individuals who committed an offense when they were 21 years of age or

younger, paragraph (1) shall not apply to the offense if it has been more than 30 months since the sentencing occurred.

(iii) Limitation

This subparagraph shall not apply to an offense described under paragraph (1)(B).¹

(B) Expungement and sealing

With respect to an individual, paragraph (1) shall not apply to an offense if—

(i) there is an order of expungement, sealing, or dismissal that has been issued in regard to the conviction in connection with such offense; and

(ii) it is intended by the language in the order itself, or in the legislative provisions under which the order was issued, that the conviction shall be destroyed or sealed from the individual's State, Tribal, or Federal record, even if exceptions allow the record to be considered for certain character and fitness evaluation purposes.

(C) De minimis exemption

(i) In general

Paragraph (1) shall not apply to such de minimis offenses as the Board determines, by rule.

(ii) Confinement criteria

In issuing rules under clause (i), the Board shall include a requirement that the offense was punishable by a term of three years or less confined in a correctional facility, where such confinement—

(I) is calculated based on the time an individual spent incarcerated as a punishment or a sanction, not as pretrial detention; and

(II) does not include probation or parole where an individual was restricted to a particular jurisdiction or was required to report occasionally to an individual or a specific location.

(iii) Bad check criteria

In setting the criteria for de minimis offenses under clause (i), if the Board establishes criteria with respect to insufficient funds checks, the Board shall require that the aggregate total face value of all insufficient funds checks across all convictions or program entries related to insufficient funds checks is \$2,000 or less.

(iv) Designated lesser offenses

Paragraph (1) shall not apply to certain lesser offenses (including the use of a fake ID, shoplifting, trespass, fare evasion, driving with an expired license or tag, and such other low-risk offenses as the Board may designate) if 1 year or more has passed since the applicable conviction or program entry.

(5) Consent applications

(A) In general

The Board shall accept consent applications from an individual and from an insured credit union on behalf of an individual that are filed separately or contemporaneously with a regional office of the Board.

¹ See References in Text note below.

(B) Sponsored applications filed with regional offices

Consent applications filed at a regional office of the Board by an insured credit union on behalf of an individual—

- (i) shall be reviewed by such office;
- (ii) may be approved or denied by such office, if such authority has been delegated to such office by the Board; and
- (iii) may only be denied by such office if the general counsel of the Board (or a designee) certifies that the denial is consistent with this section.

(C) Individual applications filed with regional offices

Consent applications filed at a regional office by an individual—

- (i) shall be reviewed by such office; and
- (ii) may be approved or denied by such office, if such authority has been delegated to such office by the Board, except with respect to—
 - (I) cases involving an offense described under paragraph (1)(B);¹ and
 - (II) such other high-level security cases as may be designated by the Board.

(D) National office review

The national office of the Board shall—

- (i) review any consent application with respect to which a regional office is not authorized to approve or deny the application; and
- (ii) review any consent application that is denied by a regional office, if the individual requests a review by the national office.

(E) Forms and instructions**(i) Availability**

The Board shall make all forms and instructions related to consent applications available to the public, including on the website of the Board.

(ii) Contents

The forms and instructions described under clause (i) shall provide a sample cover letter and a comprehensive list of items that may accompany the application, including clear guidance on evidence that may support a finding of rehabilitation.

(F) Consideration of criminal history**(i) Regional office consideration**

In reviewing a consent application, a regional office shall—

- (I) primarily rely on the criminal history record of the Federal Bureau of Investigation; and
- (II) provide such record to the applicant to review for accuracy.

(ii) Certified copies

The Board may not require an applicant to provide certified copies of criminal history records unless the Board determines that there is a clear and compelling justification to require additional information to verify the accuracy of the criminal

history record of the Federal Bureau of Investigation.

(G) Consideration of rehabilitation

Consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Board shall—

- (i) conduct an individualized assessment when evaluating consent applications that takes into account evidence of rehabilitation, the applicant's age at the time of the conviction or program entry, the time that has elapsed since conviction or program entry, and the relationship of individual's² offense to the responsibilities of the applicable position;
- (ii) consider the individual's employment history, letters of recommendation, certificates documenting participation in substance abuse programs, successful participating in job preparation and educational programs, and other relevant mitigating evidence; and
- (iii) consider any additional information the Board determines necessary for safety and soundness.

(H) Scope of employment

With respect to an approved consent application filed by an insured credit union on behalf of an individual, if the Board determines it appropriate, such approved consent application shall allow the individual to work for the same employer (without restrictions on the location) and across positions, except that the prior consent of the Board (which may require a new application) shall be required for any proposed significant changes in the individual's security-related duties or responsibilities, such as promotion to an officer or other positions that the employer determines will require higher security screening credentials.

(I) Coordination with FDIC

In carrying out this subsection, the Board shall consult and coordinate with the Federal Deposit Insurance Corporation as needed to promote consistent implementation where appropriate.

(6) Definitions

In this subsection:

(A) Consent application

The term "consent application" means an application filed with Board² by an individual (or by an insured credit union on behalf of an individual) seeking the written consent of the Board under paragraph (1)(A).

(B) Criminal offense involving dishonesty

The term "criminal offense involving dishonesty"—

- (i) means an offense under which an individual, directly or indirectly—
 - (I) cheats or defrauds; or
 - (II) wrongfully takes property belonging to another in violation of a criminal statute;
- (ii) includes an offense that Federal, State, or local law defines as dishonest, or

²So in original. Probably should be preceded by "the".

for which dishonesty is an element of the offense; and

(iii) does not include—

(I) a misdemeanor criminal offense committed more than one year before the date on which an individual files a consent application, excluding any period of incarceration; or

(II) an offense involving the possession of controlled substances.

(C) Pretrial diversion or similar program

The term “pretrial diversion or similar program” means a program characterized by a suspension or eventual dismissal or reversal of charges or criminal prosecution upon agreement by the accused to restitution, drug or alcohol rehabilitation, anger management, or community service.

(e) Security standards; reports; penalty

(1) The Board shall promulgate rules establishing minimum standards with which each insured credit union must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts.

(2) The rules shall establish the time limits within which insured credit unions shall comply with the standards and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures.

(3) An insured credit union which violates a rule promulgated pursuant to this subsection shall be subject to a civil penalty which shall not exceed \$100 for each day of the violation.

(f) Share draft accounts; maintenance, loans, etc.

(1) Every insured credit union is authorized to maintain, and make loans with respect to, share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owners of such share draft accounts to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties.

(2) Paragraph (1) shall apply only with respect to share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

(g) Interest rates

(1) If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

(2) If the rate prescribed in paragraph (1) exceeds the rate such credit union would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the credit union taking or receiving such interest.

(h) Emergency merger

Notwithstanding any other provision of law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize an insured credit union to purchase any of the assets of, or assume any of the liabilities of, any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that—

(1) an emergency requiring expeditious action exists with respect to such other insured credit union;

(2) other alternatives are not reasonably available; and

(3) the public interest would best be served by approval of such merger, consolidation, purchase, or assumption.

(i) Emergency purchase of assets; conversion to insured deposits

(1) Notwithstanding any other provision of this chapter or of State law, the Board may authorize an institution whose deposits or accounts are insured by the Federal Deposit Insurance Corporation to purchase any of the assets of or assume any of the liabilities of an insured credit union which is insolvent or in danger of insolvency, except that prior to exercising this authority the Board must attempt to effect the merger or consolidation of an insured credit union which is insolvent or in danger of insolvency with another insured credit union, as provided in subsection (h).

(2) For purposes of the authority contained in paragraph (1), insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board and the National Credit Union Share Insurance Fund shall be ab-

solved of any liability to the credit union's members with respect to those accounts.

(j) Privileges not affected by disclosure to banking agency or supervisor

(1) In general

The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

(2) Rule of construction

No provision of paragraph (1) may be construed as implying or establishing that—

(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

(B) any person would waive any privilege applicable to any information by submitting the information to the Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.

(June 26, 1934, ch. 750, title II, § 205, as added Pub. L. 91-468, §1(3), Oct. 19, 1970, 84 Stat. 1002; amended Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 96-221, title III, §305(d), title V, §523, Mar. 31, 1980, 94 Stat. 147, 166; Pub. L. 97-320, title I, §131, 141(a)(8), title VII, §706(b), Oct. 15, 1982, 96 Stat. 1486, 1489, 1540; Pub. L. 100-86, title V, §509(a), Aug. 10, 1987, 101 Stat. 635; Pub. L. 101-73, title IX, §910(b), Aug. 9, 1989, 103 Stat. 478; Pub. L. 103-322, title XXXII, §320606, Sept. 13, 1994, 108 Stat. 2119; Pub. L. 105-219, title II, §202, Aug. 7, 1998, 112 Stat. 919; Pub. L. 109-173, §2(d)(3), Feb. 15, 2006, 119 Stat. 3604; Pub. L. 109-351, title VI, §607(b), Oct. 13, 2006, 120 Stat. 1982; Pub. L. 111-203, title III, §362(2), July 21, 2010, 124 Stat. 1549; Pub. L. 117-263, div. E, title LVII, §5705(b), Dec. 23, 2022, 136 Stat. 3414.)

Editorial Notes

REFERENCES IN TEXT

Section 1008 of title 18, referred to in subsec. (d)(2)(A)(i)(I), was repealed by Pub. L. 101-73, title IX, §961(g)(1), Aug. 9, 1989, 103 Stat. 500.

Paragraph (1)(B), referred to in subsec. (d)(4)(A)(iii), (5)(C)(ii)(I), probably should be a reference to "paragraph (2)", meaning par. (2) of subsec. (d). See similar provisions in section 1829(c)(1)(C) and (f)(3)(B)(i) of this title, which refer to offenses described in subsec. (a)(2) of that section, which correspond to those listed in subsec. (d)(2) of this section.

The Civil Rights Act of 1964, referred to in subsec. (d)(5)(G), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2022—Subsec. (d)(4) to (6). Pub. L. 117-263 added pars. (4) to (6).

2010—Subsec. (b)(2)(G)(i). Pub. L. 111-203, §362(2)(A), struck out "the Office of Thrift Supervision and" before "the Office of the Comptroller".

Subsec. (i)(1). Pub. L. 111-203, §362(2)(B), struck out "or the Federal Savings and Loan Insurance Corporation" before "to purchase".

2006—Subsec. (a). Pub. L. 109-173 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Every insured credit union shall display at each place of business maintained by it a sign or signs indicating that its member accounts are insured by the Board and shall include in all of its advertisements a statement to the effect that its member accounts are insured by the Board. The Board may exempt from this requirement advertisements which do not relate to member accounts or advertisements in which it is impractical to include such a statement. The Board shall prescribe by regulation the forms of such signs, the manner of display, the substance of any such statement, and the manner of use."

Subsec. (j). Pub. L. 109-351 added subsec. (j).

1998—Subsec. (b)(1). Pub. L. 105-219, §202(1), substituted "Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board" for "Except with the prior written approval of the Board, no insured credit union shall".

Subsec. (b)(2), (3). Pub. L. 105-219, §202(2), (3), added par. (2) and redesignated former par. (2) as (3).

1994—Subsec. (d). Pub. L. 103-322 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

"(1) PROHIBITION.—Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured credit union; and

"(B) an insured credit union may not permit such participation.

"(2) PENALTY.—Whoever knowingly violates paragraph (1) shall be fined not more than \$1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both."

1989—Subsec. (d). Pub. L. 101-73 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Except with the written consent of the Board, no person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the credit union involved shall be subject to a penalty of not more than \$100 for each day this prohibition is violated, which the Board may recover for its use."

1987—Pub. L. 100-86 repealed Pub. L. 97-320, §141. See 1982 Amendment note below.

1982—Subsec. (f)(2). Pub. L. 97-320, §706(b), inserted provisions relating to deposits of public funds.

Subsecs. (h), (i). Pub. L. 97-320, §131, added subsecs. (h) and (i).

Pub. L. 97-320, §141(a)(8), which directed that, effective Oct. 13, 1986, the provisions of law amended by section 131 of Pub. L. 97-320 shall be amended to read as they would without such amendment, was repealed by Pub. L. 100-86, §509(a). See Effective and Termination Dates of 1982 Amendment note and Extension of Emergency Acquisition and Net Worth Guarantee Provisions of Pub. L. 97-320 note set out under section 1464 of this title.

1980—Subsec. (f). Pub. L. 96-221, §305(d), added subsec. (f).

Subsec. (g). Pub. L. 96-221, §523, added subsec. (g).

1978—Pub. L. 95-630 substituted "Board" for "Administrator" wherever appearing, and "its" for "his" where appropriate.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-173, §2(e), Feb. 15, 2006, 119 Stat. 3605, provided that: “This section [amending this section and sections 1787, 1817, 1821, 1828, 1831, and 3104 of this title] and the amendments made by this section shall take effect on the date on which the final regulations required under section 2109(a)(2) of the Federal Deposit Insurance Reform Act of 2005 [Pub. L. 109-171, set out as a Regulations note under section 1817 of this title] take effect [Apr. 1, 2006, see 71 F.R. 14629].”

EFFECTIVE DATE OF 1980 AMENDMENT

Enactment of subsec. (f) by Pub. L. 96-221 effective at the close of Mar. 31, 1980, see section 306 of Pub. L. 96-221, set out as a note under section 1464 of this title.

Pub. L. 96-221, title V, §525, Mar. 31, 1980, 94 Stat. 167, provided that: “The amendments made by sections 521 through 523 of this title [amending this section and enacting sections 1730g and 1831d of this title] shall apply only with respect to loans made in any State during the period beginning on April 1, 1980, and ending on the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the amendments made by such sections to apply with respect to loans made in such State, except that such amendments shall apply to a loan made on or after the date such law is adopted or such certification is made if such loan is made pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made.”

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.

EXTENSION OF EMERGENCY ACQUISITION AND NET WORTH GUARANTEE PROVISIONS OF PUB. L. 97-320

No amendment made by section 141(a) of Pub. L. 97-320, set out as a note under section 1464 of this title, as in effect before Aug. 10, 1987, to any other provision of law to be deemed to have taken effect before such date and any such provision of law to be in effect as if no such amendment had been made before such date, see section 509(c) of Pub. L. 100-86, set out as a note under section 1464 of this title.

No amendment made by section 141(a) of Pub. L. 97-320, set out as a note under section 1464 of this title, as in effect on the day before Oct. 8, 1986, to any other provision of law to be deemed to have taken effect before such date and any such provision of law to be in effect as if no such amendment had taken effect before such date, see section 1(c) of Pub. L. 99-452, set out as a note under section 1464 of this title.

Section 141(a) of Pub. L. 97-320, set out as a note under section 1464 of this title, as in effect on the day after Aug. 27, 1986, applicable as if included in Pub. L. 97-320 on Oct. 15, 1982, with no amendment made by such section to any other provision of law to be deemed to have taken effect before Aug. 27, 1986, and any such provision of law to be in effect as if no such amendment had taken effect before Aug. 27, 1986, see section 1(c) of Pub. L. 99-400, set out as a note under section 1464 of this title.

DEFINITION OF “STATE”

For purposes of subsec. (g) of this section, the term “State” to include the several States, the Common-

wealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands, see section 527 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96-221, section 1735f-7 of this title, or any other provisions of law, including section 85 of this title, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

§ 1786. Termination of insured credit union status; cease and desist orders; removal or suspension from office; procedure**(a) Termination of insurance**

(1) Any insured credit union other than a Federal credit union may, upon not less than ninety days’ written notice to the Board and upon the affirmative vote of a majority of its members within one year prior to the giving of such notice, terminate its status as an insured credit union.

(2) Any insured credit union, other than a Federal credit union, which has obtained a new certificate of insurance from a corporation authorized and duly licensed to insure member accounts may upon not less than ninety days’ written notice to the Board convert from status as an insured credit union under this chapter: *Provided*, That at the time of giving notice to the Board the provisions of paragraph (b)(1) of this section are not being invoked against the credit union.

(b) Unsound condition of credit union; notice to correct condition; hearing; judicial review

(1) Whenever, in the opinion of the Board, any insured credit union is engaging or has engaged in unsafe or unsound practices in conducting the business of such credit union, or is in an unsafe or unsound condition to continue operations as an insured credit union, or is violating or has violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Board in connection with any action on any application, notice, or other request by the credit union or institution-affiliated party,¹ or is violating or has violated any written agreement entered into with the Board, the Board shall serve upon the credit union a statement with respect to such practices or conditions or violations for the purpose of securing the correction thereof. In the case of an insured State-chartered credit union, the Board shall send a copy of such statement to the commission, board, or authority, if any, having supervision of such credit union. Unless such correction shall be made within one hundred and twenty days after service of such statement, or within such shorter period of not less than twenty days after such service as the Board shall require in any case where it determines that the insurance risk with respect to such credit union could be unduly jeopardized by further delay in the correction of

¹ So in original.