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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 760, and 790

Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending the sections of NCUA's regulations addressing nondiscrimination requirements, flood insurance and the description of NCUA to make minor, nonsubstantive technical corrections. The technical amendments update the regulations to reflect current agency practice and will not cause any substantive changes.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Lance Noggle, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke

Street, Alexandria, Virginia 22314-3428 or telephone: (703) 518-6555.

SUPPLEMENTARY INFORMATION

- I. Background**
- II. Regulatory Changes**
- III. Regulatory Procedures**

I. Background

A. Why is NCUA Adopting This Rule?

NCUA reviews one-third of its regulations each year to “update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.” NCUA Interpretive Ruling and Policy Statement (IRPS) 87-2, as amended by IRPS 03-2, Developing and Reviewing Government Regulations. In its 2011 review, NCUA determined minor revisions to parts 760 and 790 are necessary to reflect current agency practice. In addition, a similar update to part 701 is made.

B. What Changes Does This Rule Make?

This rule amends parts 701, 760 and 790 of NCUA’s regulations to make minor technical corrections. The corrections are necessary to update and conform the

sections to current agency practice. Specifically, section 701.31 is updated to reflect that the Board has redesignated the Office of Consumer Protection to hear discrimination complaints under the Fair Housing Act and Equal Credit Opportunity Act. The Office of Examination and Insurance previously was assigned this responsibility. The rule amends section 701.31 to remove references to “Office of Examination and Insurance” and to replace those references with “Office of Consumer Protection”. Section 760.6 is updated to replace the Federal Emergency Management Administration’s mailing address with its website address. Section 790.2 is amended to add the Office of Minority and Women Inclusion¹ to the list of office descriptions; remove the separate description of the Office of Capital Markets and Planning and incorporate it into the description of the Office of Examination and Insurance; change the title of Director to Chief Financial Officer in the description of the Office of the Chief Financial Officer; update the description of the Regional Offices to reflect that other offices are primarily involved in chartering and insurance issues; and update the contact address of Region II.

II. Regulatory Changes

This rule provides minor technical corrections and will not cause any substantive changes.

¹ The Office of Minority and Women Inclusion was required to be established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

III. Regulatory Procedures

Final Rule Under the Administrative Procedure Act

The Board is issuing this rulemaking as a final rule, effective upon publication. Generally, the Administrative Procedure Act (APA) requires a rulemaking to be published as a notice of proposed rulemaking with the opportunity for public comment, unless the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553. The Board believes good cause exists for issuing these amendments without notice and public comment. The amendments in this rule are not substantive, but merely technical in that they make minor corrections to update the regulations and conform them to current agency practice.

Additionally, the APA requires that a final rule must have a delayed effective date of 30 days from the date of publication, except for good cause. 5 U.S.C. 553(d). The Board also finds good cause to waive the customary 30-day delayed effective date requirement under the APA. 5 U.S.C. 553(d)(3). Again, the technical changes conform the rules to current agency practice. This 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 (primarily those credit unions under ten million dollars in assets). This rule does not impose any regulatory burden. It merely makes non-substantive technical changes to parts 701, 760 and 790 of NCUA's regulations. These changes will not have a significant economic impact on a substantial number of small credit unions. Therefore, a regulatory flexibility analysis is not required.

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. 44 U.S.C. 3507(d); 5 CFR part 1320. 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. These technical amendments do not impose any new paperwork burden.

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. These changes 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 these changes do 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 rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 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. Based on similar technical changes to the NCUA regulations, we believe the Office of Management and Budget will determine 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 General Accounting Office so this rule may be reviewed.

List of Subjects

12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Marital status discrimination, Mortgages, Religious discrimination, Sex discrimination, Signs and symbols

12 CFR Part 760

Flood insurance

12 CFR Part 790

Organization and functions (Government agencies)

By the National Credit Union Administration Board on March 15, 2012.

Mary Rupp
Secretary of the Board

For the reasons discussed above, NCUA amends 12 CFR parts 701, 760, and 790 of title 12, chapter VII, of the Code of Federal Regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS 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. 1601, et seq.; 42 U.S.C. 1981 and 3601-3610, Section 701.35 is also authorized by 42 U.S.C. 4311—4312.

2. Section 701.31 is amended by revising the image in paragraph (d)(3)

§ 701.31 Nondiscrimination requirements.

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(d) * * *

(3) * * *



EQUAL HOUSING LENDER

We Do Business in Accordance With
Federal Fair Lending Laws

UNDER THE FEDERAL FAIR HOUSING ACT, IT IS ILLEGAL, ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP, OR FAMILIAL STATUS (HAVING CHILDREN UNDER THE AGE OF 18), TO:

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or deny any loan secured by a dwelling; or
- Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of such a loan, or in appraising property.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

Assistant Secretary for Fair Housing and Equal Opportunity
Department of Housing & Urban Development Washington,
D.C. 20410

For processing under the Federal Fair Housing Act
and to:

National Credit Union Administration
Office of Consumer Protection
Alexandria, VA 22314-3428

For processing under NCUA Regulations

UNDER THE EQUAL CREDIT OPPORTUNITY ACT, IT IS ILLEGAL
TO DISCRIMINATE IN ANY CREDIT TRANSACTION:

- On the basis of race, color, national origin, religion, sex, marital status, or age,
- Because income is from public assistance, or
- Because a right was exercised under the Consumer Credit Protection Act.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

National Credit Union Administration
Office of Consumer Protection
Alexandria, VA 22314-3428

NCUA 1582
(Revised 2/2012)

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PART 760 – LOANS IN AREAS HAVE SPECIAL FLOOD HAZARDS

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

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

§ 760.6 [Amended]

4. Section 760.6 is amended by removing from paragraph (a) “FEMA, P.O. Box 2012, Jessup, MD 20794–2012” and adding in its place “FEMA’s website at www.fema.gov”.

PART 790 – DESCRIPTION OF NCUA; REQUEST FOR AGENCY ACTION

5. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, 1795f

6. In § 790.2:
 - a. Revise paragraphs (b)(4), (b)(5), and (b)(13);

b. Remove from table in paragraph (c)(1) the address for Region No. II “1775 Duke Street, Suite 4206, Alexandria, VA 22314-3437” and add in its place “1900 Duke St., Suite 300, Alexandria, VA 22314-3498”; and

c. Revise paragraph (c)(2).

The revisions read as follows:

§ 790.2 Central and regional office organization.

* * * * *

(b) * * *

(4) *Office of Chief Financial Officer.* NCUA's Chief Financial Officer is in charge of budgetary, accounting and financial matters for the NCUA, including responsibility for submitting annual budget and staffing requests for approval by the Board and, as required, by the Office of Management and Budget; for managing NCUA's budgetary resources; for managing the operations of the National Credit Union Share Insurance Fund (NCUSIF) to include accounting, financial reporting and the collection and payment of capitalization deposits, insurance premiums and insurance dividends; for collecting annual operating fees from federal credit unions; for maintaining NCUA's accounting system and accounting records; for processing payroll, travel, and accounts payable disbursements; and for preparing internal and external financial reports. The Chief Financial Officer is also responsible for providing NCUA's executive offices and

Regional Directors with administrative services, including: agency security; contracting and procurement; management of equipment and supplies; acquisition; printing; graphics; and warehousing and distribution.

(5) *Office of Examination and Insurance.* The Director of the Office of Examination and Insurance: formulates standards and procedures for examination and supervision of the community of federally insured credit unions, and reports to the Board on the performance of the examination program; manages the risk to the NCUSIF, to include overseeing the NCUSIF Investment Committee, monitoring the adequacy of NCUSIF reserves, analyzing the reasons for NCUSIF losses, formulating policies and procedures regarding the supervision of financially troubled credit unions, and evaluating certain requests for special assistance pursuant to Section 208 of the Federal Credit Union Act and for certain proposed administrative actions regarding federally insured credit unions; serves as the Board expert on accounting principles and standards and on auditing standards; represents NCUA at meetings with the American Institute of Certified Public Accountants (AICPA), Federal Financial Institutions Examination Council (FFIEC) and General Accounting Office (GAO); and collects data and provides statistical reports. The Director is responsible for developing and conducting research in support of NCUA programs, and for preparing reports on research activities for the information and use of agency staff, credit union officials, state credit union supervisory

authorities, and other governmental and private groups. The Director is also responsible for providing interest rate risk assessment, investment expertise and advice to the Board and agency staff and conducting research and development to assess risk areas of emerging products, delivery systems, infrastructure issues, and investments.

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(13) *Office of Minority and Women Inclusion.* The Office of Minority and Women Inclusion was established pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. It has the responsibility for all NCUA matters relating to diversity in management, employment, and business activities. Specific duties of the office include developing and implementing standards for: equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of NCUA; increased participation of minority-owned and women-owned businesses in the programs and contracts of NCUA, including standards for coordinating technical assistance to such businesses; assessing the diversity policies and practices of credit unions regulated by NCUA; and preserving credit unions run by minorities and/or serving minorities.

* * * * *

(c) * * *

(2) A Regional Director is in charge of each Regional Office. The Regional Director manages NCUA's programs in the Region assigned in accordance with established policies. A Regional Director's duties include: directing examination and supervision programs to promote and assure safety and soundness; assisting other offices in chartering and insurance issues; managing regional resources to meet program objectives in the most economical and practical manner; and maintaining good public relations with public, private, and governmental organizations, Federal credit union officials, credit union organizations, and other groups which have an interest in credit union matters in the assigned Region. The Regional Director maintains liaison and cooperation with other regional offices of Federal departments and agencies, state agencies, city and county officials, and other governmental units that affect credit unions. The Regional Director is aided by an Associate Regional Director for Operations and Associate Regional Director for Programs. Staff working in the Regional Office report to the Associate Regional Director for Operations. Each region is divided into examiner districts, each assigned to a Supervisory Credit Union Examiner; groups of examiners are directed by a Supervisory Credit Union Examiner, each of whom in turn reports directly to the Associate Regional Director for Programs.

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