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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 725

RIN 3133-AF91

Central Liquidity Facility

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is proposing to adopt as final the revisions to the Central Liquidity Facility (CLF) rule made under two interim final rules (IFRs) published in the *Federal Register* on April 29, 2020, and March 24, 2021. The proposal would adopt the amendments made by these IFRs and, where appropriate, would remove provisions from the NCUA's regulations that have lapsed under the terms of the IFRs. The proposal would also remove or modify certain filing requirements and criteria the Board uses to approve CLF members. Finally, the proposal would amend the timing requirements related to pay adjustments to the capital stock subscription, clarify various regulatory provisions, and make necessary conforming edits.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION].

ADDRESSES: Comments may be submitted in one of the following ways. **(Please send comments by one method only)**:

- *Federal eRulemaking Portal: https://www.regulations.gov.* The docket number for this proposed rule is NCUA–2026–1889. Follow the "Submit a comment"

instructions. If you are reading this document on federalregister.gov, you may use the green "SUBMIT A PUBLIC COMMENT" button beneath this rulemaking's title to submit a comment to the regulations.gov docket. A plain language summary of the proposed rule is also available on the docket website.

- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier*: Same as mailing address.

Mailed and hand-delivered comments must be received by the close of the comment period.

Public inspection: Please follow the search instructions on *https://www.regulations.gov* to view the public comments. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received and will not be deleted, modified, or redacted. Comments may be submitted anonymously. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518-6540 or emailing *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Policy: Matthew J. Biliouris, Acting President, Central Liquidity Facility, at 1775 Duke Street, Alexandria, VA 22314 or by telephone at (703) 518-1161. Legal: John H. Brolin, Senior Staff Attorney, Division of Regulations and Legislation, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or by telephone at (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

In response to the COVID-19 pandemic, the Board issued an IFR on April 29, 2020 (April 29th IFR), which provided credit unions with greater access to liquidity to help ensure they remain operational throughout the crisis.[1] The IFR made it easier and more attractive for credit unions to join the NCUA's CLF. In addition, the rule made several amendments to conform to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).[2]

The CLF, a mixed-ownership government corporation managed by the Board, established in 1979, serves as a liquidity source for its member credit unions.[3] Its purpose is to improve general financial stability by meeting the liquidity needs of credit unions and thereby encouraging savings, supporting consumer and mortgage lending, and providing basic financial resources to all segments of the economy.

Section 307 of the FCU Act, 12 U.S.C. 1795f, among other things, gives the Board the authority to prescribe the manner in which the general business of the CLF shall be conducted and to prescribe rules and regulations to carry out the CLF-related provisions of the FCU Act.[4] Under this authority, the Board issued the April 29th IFR to enhance liquidity for credit unions during the COVID-19 pandemic and to make regulatory changes that cohere to the CARES Act.

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[1] 85 FR 23731 (Apr. 29, 2020).

[2] *Coronavirus Aid, Relief, and Economic Security Act,* Public Law 116-136, 134 Stat 281 (Mar. 27, 2020).

[3] Public Law 95-630, 92 Stat 3641 (Nov.10, 1978), codified at 12 U.S.C. 1795, *et seq.*

[4] 12 U.S.C. 1795f.

The Board emphasized in the April 29th IFR that, while some of the amendments in the rule were temporary, they would afford significant liquidity support to the entire credit union system. The Board also noted that several of the changes in the IFR were conforming changes based on the recently enacted CARES Act, which temporarily amended the FCU Act. As such, the changes in the IFR that corresponded to the CARES Act were initially set to sunset in accordance with the CARES Act on December 31, 2020. To provide clarity and transparency, the Board included the temporary changes in the IFR and explained what would occur upon the sunset of the amendments.

In December 2020, the Consolidated Appropriations Act, 2021 (CAA) was passed by Congress.[5] The CAA, among other things, extended the sunset date of the CLF enhancements made by the CARES Act until December 31, 2021.[6] In response, the Board issued a second IFR on March 24, 2021 (March 24th IFR), to amend its regulations to reflect the extensions.[7] The March 24th IFR responded to comments on the April 29th IFR and also extended the withdrawal from CLF membership provisions that the Board included in the April 29th IFR.

The Board received 15 comments in response to the April 29th IFR and the March 24th IFR. All the comments supported the IFRs. The comments also requested legislative changes, other changes outside the scope of the IFRs, or both.

In addition to the changes made by the April 29th IFR and the March 24th IFR, the proposal would also remove or modify certain filing requirements and criteria the Board uses to approve CLF members. Finally, the proposal would amend the timing requirements related to pay adjustments to the capital stock subscription, clarify various

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[5] *Consolidated Appropriations Act, 2021,* Public Law 116–260, 134 Stat 1182 (Dec. 27, 2020).
[6] Public Law 116–260, 134 Stat 1182, section 540(a).
[7] 86 FR 15568 (Mar. 24, 2021).

regulatory provisions, and make necessary conforming edits. The changes to the NCUA's CLF regulations are discussed in more detail in the section-by-section analysis below.

B. Legal Authority

The Board has the legal authority to issue this proposed rule pursuant to its plenary rulemaking authority under the Federal Credit Union Act (FCU Act) and its specific rulemaking authority under the various provisions the Board administers.[8] In particular, section 307 of the FCU Act, 12 U.S.C. 1795f, gives the Board the authority to prescribe the manner in which the general business of the CLF shall be conducted and to prescribe rules and regulations to carry out the CLF-related provisions of the FCU Act.[9]

II. Proposed Rule

A. Nomenclature changes throughout part 725.

Current part 725 uses the term "NCUA Board" and "Facility" interchangeably in numerous places throughout part 725. The Board acts through the CLF, a mixed-ownership government corporation within the NCUA, and the Office of the Board. They are separate offices, however, with separate duties and functions. The interchangeable use of terminology in part 725 causes confusion for members and applicants because it is sometimes unclear, in places where the term "NCUA Board" is used, whether the Board is acting through the CLF or the Office of the Board. The proposed rule would replace the term "NCUA Board" with the term "Facility" throughout part 725, unless the context indicates that the Board would be acting through the Office of the Board. Regardless of whether the term "NCUA Board" or "Facility" is used, actions carried out by the CLF pursuant to part 725 originate with the NCUA Board. Accordingly, the proposal would

[8] 12 U.S.C. 1766, 1789.
[9] 12 U.S.C. 1795f.

replace the term "NCUA Board" with the term "Facility" in current §§ 725.4(c)(1), (d), and (e); 725.5(c), (d), and (e); 725.6(a), (b), and the second and third sentences in paragraph (c); 725.17(b)(2)(iii); 725.22(a) and (b); 725.23(a) and (b).

B. Definition of "facility lending officer" under § 725.2(g).

Current § 725.2(g) defines the term "facility lending officer" as any employee of the CLF or the NCUA who has been designated by the NCUA Board as a Facility lending officer. The title Facility lending officer is antiquated and no longer used by the CLF. Accordingly, the proposal would remove this definition from § 725.2(g).

C. Definition of "liquidity needs" under 725.2(i).

In accordance with the CARES Act, the April 29th IFR amended the definition of "liquidity needs" to remove the words "primarily serving natural persons." This change was intended to mirror the statutory change in the CARES Act and clarified that liquidity needs are not limited to only natural person credit unions but may also include those of corporate credit unions or a corporate credit union group. The change allowed corporate credit unions to obtain loans for their own liquidity needs. The amendment was initially set to sunset in accordance with the CARES Act on December 31, 2020.

The CAA extended this provision in the CARES Act until December 31, 2021. To address this extension, the NCUA's March 24th IFR amended the regulatory definition of "liquidity needs" to make it clear when the definition under the CARES Act applied and when such definition would revert to the pre-CARES Act version after December 31, 2021.

Current § 725.2(i)(1) defines "liquidity needs" from April 29, 2020, to December 31, 2021, as the needs of credit unions for short-term adjustment credit available to assist

in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities; seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and protracted adjustment credit available in the event of unusual or emergency circumstances of a longer-term nature resulting from national, regional, or local difficulties. Current § 725.2(i)(2) defines "liquidity needs" after December 31, 2021, as the needs of credit unions primarily serving natural persons for short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities; seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and protracted adjustment credit available in the event of unusual or emergency circumstances of a longer-term nature resulting from national, regional, or local difficulties.

Given that the definition of liquidity needs under current § 725.2(i)(1) sunset on January 1, 2022, the Board is proposing to remove paragraph (i)(1) and replace it with the definition of liquidity needs under current § 725.2(i)(2). Accordingly, this proposal would amend § 725.2(i) to provide that "liquidity needs" means the needs of credit unions primarily serving natural persons for short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities; seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and protracted adjustment credit available in the event of unusual or emergency

circumstances of a longer-term nature resulting from national, regional, or local difficulties.

D. Requirement for natural-person credit unions to furnish certain reports and documents under § 725.3(a)(3).

Current § 725.3(a)(3) requires that a natural-person credit union applying to become a regular member of the CLF furnish certain reports and documents with its completed membership application. In particular, the natural-person credit union must provide a copy of the credit union's financial and statistical report for the most recent calendar month; and copies of the credit union's charter and bylaws, unless the credit union is federally chartered. These requirements were adopted in nearly identical form in 1979.[10] NCUA has determined that it no longer needs to require that copies of such reports and documents be provided to the CLF for federally insured natural-person credit unions because copies of the reports and documents can already be obtained by the CLF through other means, in particular, through the NCUA's examination process. This is not the case, however, for non-federally insured natural-person credit unions. Accordingly, to streamline the NCUA's CLF regulations and eliminate outdated and unnecessary regulatory requirements, the NCUA is proposing to amend current § 725.3(a)(3) to provide that in the case of a non-federally insured natural-person credit union not otherwise subject to examination by the NCUA, the CLF may require that the credit union provide financial reports and other information to determine the financial condition of the credit union.

[10] 44 FR 49431, 49438 (Aug. 23, 1979).

E. Regular membership requirements under § 725.3(b).

Section 725.3(b) had previously provided that, with limited exception, any credit union that becomes a regular member of the CLF may not receive CLF advances, without approval of the Board, for six months after becoming a member. The April 29th IFR eliminated the six-month waiting period on obtaining CLF advances for a credit union that becomes a regular member. The Board continues to believe it was important to remove this restriction in response to the overarching need to make liquidity assistance timely and the advantages of accelerating liquidity-need loans to new members outweighed the practical reasons that having the waiting period afforded to the CLF's operations. Accordingly, the Board is proposing to adopt this change to § 725.3(b) as final.

F. Agent Membership in the CLF under 725.4(a)(2)(ii).

The April 29th IFR, in accordance with the CARES Act, amended the nature of the requirement for a corporate credit union or group of corporate credit unions to subscribe to the capital stock of the CLF in an amount equal to one-half of one percent of the paid-in and unimpaired capital and surplus of all of the corporate credit union's or corporate credit union group's natural person credit union members. This change to prior § 725.4(a)(2) mirrored the statutory change in the CARES Act and allowed the Board, in its sole discretion, to determine which grouping of natural person member credit unions of the applying corporate credit union or corporate credit union group were considered covered by the agent's membership in the CLF. In turn, the approved group was the basis for calculating the amount of CLF capital stock the corporate credit union or corporate credit union group was required to purchase. This change provided a corporate credit union with the flexibility to subscribe to the capital stock of the CLF up to the maximum extent it could afford to do so.

This amendment was initially set to sunset in accordance with the CARES Act on December 31, 2020. Upon the sunset of the amendment, any corporate credit union or corporate credit union group that became an agent member under this provision was required to, within one year from the sunset date, either (1) purchase CLF stock in accordance with the terms of the regulation as written post-sunset of the CARES Act amendments; or (2) terminate its membership in the CLF. The Board believed that the two options accounted for the temporary nature of the CARES Act amendments while not causing undue disruption to the operations of a corporate credit union or corporate credit union group that joined the CLF under the CARES Act amendments.

The CAA extended this provision in the CARES Act until December 31, 2021.[11] To address this extension, the NCUA's March 24th IFR amended § 725.4(a)(2) to make conforming date changes to the section.

Current § 725.4(a)(2)(ii) sunset on January 1, 2022. Upon the sunset of the amendment, any corporate credit union or corporate credit union group that became an agent member under this provision was required, before January 1, 2023, to either (1) purchase CLF stock in accordance with the terms of the regulation as written post-sunset of the CARES Act amendments; or (2) terminate its membership in the CLF. It has been over two years since the January 1, 2023, deadline passed, giving credit unions ample time to comply with the requirements of current § 725.4(a)(2)(ii). Accordingly, this proposal would remove the language in current § 725.4(a)(2)(ii) and renumber the section to conform with this change.

[11] *Consolidated Appropriations Act, 2021,* Public Law 116–260, 134 Stat 1182, section 540(a) (Dec. 27, 2020).

G. Agent Member borrowing under §§ 725.4(a)(2), 725.18(a) and (d), 725.19(a) and (b).

To effectuate the intent of the CARES Act in a safe and sound manner, the April 29th IFR included a clarifying amendment to § 725.4(a)(2). Section 725.4(a)(2)(iii) clarified that, from April 29, 2020, until December 31, 2020, an agent member may borrow from the CLF for its own liquidity needs but, to do so, the agent must first subscribe to the capital stock of the CLF in an amount equal to one-half of one percent of the Agent's own paid-in and unimpaired capital and surplus.[12] Paragraph (a)(2)(iii) provided further that upon approval of the application, the Agent shall forward funds equal to one-half of this stock subscription to the CLF. Paragraph (a)(2)(iii) also provided that this amount shall be in addition to the amounts required by paragraph (a)(2)(i) or (ii) of § 725.4, if a corporate credit union or corporate credit union group joined the CLF as an Agent and intended to borrow for its own liquidity needs. Finally, paragraph (a)(2)(iii) provided that any corporate credit union or corporate credit union group that received a CLF advance for its own liquidity need under the temporary requirements set forth in this paragraph must, as of January 1, 2021, and thereafter, not request any additional CLF advances for its own liquidity needs and continue to follow the terms of the CLF advance agreement entered into between the Agent and the CLF. The Board believed the inclusion of this provision appropriately accounted for the temporary nature of this provision while assuring agents that loan agreements made during this period will not also be subject to a sunset provision or be terminated before maturity. The Board believed the provision struck the appropriate balance between congressional intent and the tenets of contract law.

[12] A credit union is required to pay into the CLF one-half of the amount required by the regulations and to hold the other one-half in liquid assets on its balance sheet.

Pursuant to the extension provided in the CAA, the Board's March 24th IFR extended the periods in § 725.4(a)(2)(iii) to end on January 1, 2022. The expanded authority provided for in current paragraph (a)(2)(iii) has expired by its own terms and no loans remain outstanding. Accordingly, this proposal would remove the language in current § 725.4(a)(2)(iii) and renumber the section to conform with this change.

H. Application requirements for corporate credit unions under § 725.4(a)(3) through (a)(6).

Current § 725.4(a)(3) through (a)(6) set forth certain requirements that a corporate credit union or a group of corporate credit unions applying to become an Agent member of the CLF must follow. In particular, current paragraph (a)(3) requires the applicant to furnish a copy of the corporate credit union's or unions' financial and statistical report for the most recent calendar month; copies of the credit union's or unions' charter and bylaws, unless such credit union is federally chartered; and a list of all the credit union's or unions' member natural person credit unions. Current paragraph (a)(4) requires the applicant to agree to submit to the supervision of the Board and to comply with all regulations and reporting requirements which the Board shall prescribe for Agent members. Current paragraph (a)(5) requires the applicant to agree to submit to periodic unrestricted examinations by the Board or its designee. Current paragraph (a)(6) requires the applicant to obtain the written approval of the Board. These requirements were adopted in nearly identical form in 1979.[13] Copies of the aforementioned reports, documents, agreements, and written approvals remains necessary for the CLF to approve a corporate credit union or group of corporate credit unions' application to become an agent member of the CLF. For a federally insured corporate credit union or a federally insured group of corporate credit unions, however, copies of the credit union's or unions'

[13] *Id*.

financial and statistical report for the most recent calendar month, copies of the credit union's or unions' charter and bylaws, and a list of all the credit union's or unions' member natural person credit unions are already available to the CLF through the examination process. In addition, the examination and reporting provisions under current paragraphs (a)(4) and (a)(5) are already codified in the FCU Act.[14] Finally, while approval of the Board is required under the FCU Act,[15] the NCUA believes including an express requirement that the Board approval must be in writing as currently required under paragraph (b)(6) is unnecessary. Accordingly, to streamline the NCUA's CLF regulations and eliminate outdated and unnecessary regulatory requirements, the NCUA is proposing to remove current § 725.4(a)(3) through (a)(6) in their entirety.

For non-federally insured corporate credit unions,[16] however, the NCUA would not already have a copy of the credit union's or unions' financial and statistical report for the most recent calendar month, copies of the credit union's or unions' charter and bylaws, or a list of all the credit union's or unions' member natural person credit unions, which are currently required under 725.4(a)(3). To ensure that the CLF can obtain copies of this information as part of the Agent application process, the Board is proposing to generally retain the requirements in current paragraph (a)(3), but for only non-federally insured corporate credit unions credit unions not otherwise subject to NCUA examination. Proposed new paragraph (a)(3) would provide that in the case of a non-

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[14] 12 U.S.C. 1795c(b)(3) and (b)(4) (providing in relevant part that a corporate credit union or group of corporate credit unions may become an Agent member by "agreeing to comply with rules and regulations the Board shall prescribe with respect to, but not limited to, management quality, asset and liability safety and soundness, internal operating and control practices and procedures, and participation of natural persons in the affairs of such credit union or credit union group; and agreeing to submit to the supervision of the Board which shall include, but not be limited to, reporting requirements and periodic unrestricted examinations.").

[15] 12 U.S.C. 1795c(b)(1) (providing in relevant part that a corporate credit union or group of corporate credit unions may become an Agent member by "obtaining the approval of the Board.").

[16] While the NCUA is currently unaware of any non-federally insured corporate credit unions, neither the FCU Act nor the NCUA's regulations prohibit such an institution or institutions from becoming Agent members of the CLF.

federally insured corporate credit union not otherwise subject to examination by the NCUA, the CLF may require that the credit union provide financial reports and other information to determine the financial condition of the credit union.

I. Criteria corporate credit unions must meet to be Agent members under § 725.4(b).

Current § 725.4(b) requires that the Board may approve a corporate credit union or group of corporate credit unions as an Agent member if certain criteria are met. In particular, a corporate credit union or each corporate credit union in a group must meet the following criteria:

1. The management policies are in writing, approved by the corporate credit union's board of directors, and reviewed annually by such board;

2. Adequate internal controls are in place to assure accurate and timely reporting of transactions and the safeguarding of assets;

3. The financial condition of the corporate credit union is sound with adequate reserves for losses;

4. Surety bond coverage provides protection for the corporate credit union while the corporate credit union is performing the duties of an Agent member of the CLF;

5. Management has demonstrated its ability to use such techniques as cash flow analysis, budgeting, and projections of sources and uses of funds to manage the affairs of the corporate credit union efficiently and in conformity with sound business practices; and

6. There are no practices, procedures, policies, or other factors that would result in discrimination by the corporate credit union among natural person credit unions

or inhibit its ability to act independently in its role as an Agent member of the CLF.

The criteria listed in paragraph (b) were originally adopted in a 1979 final rule regarding CLF membership and lending.[17] A comprehensive explanation of how or why the criteria were chosen was not provided.[18] The criteria, however, appear to have been adopted to implement 12 U.S.C. 1795c(b)(1), which requires that an agent member of the CLF "obtain[] the approval of the Board." While Board approval is required under the Federal Credit Union Act, the particular criteria listed in § 725.4(b) are not expressly listed in the Act. After careful review of the criteria, the Board has determined that the list of criteria is obsolete and does not provide a full, accurate list of all the criteria that should be considered, particularly since extensions of credit sometimes requires additional analysis to protect the CLF. Accordingly, the Board is proposing to remove current paragraph (b) to streamline the NCUA's CLF regulations and eliminate outdated regulatory requirements. Consistent with the removal of paragraph (b), the proposed rule would renumber the remaining paragraphs in § 725.4.

J. Independent audits of books and records under § 725.4(d).

Current § 725.4(d) requires that each Agent, or in the case of an Agent group, each corporate credit union in the group, must have on an annual basis a third-party independent audit of its books and records and provide the CLF with copies of the report of such audit. Paragraph (d) provides further that the auditor selected must be recognized by a State or territorial licensing authority as possessing the requisite knowledge and experience to perform audits. Section 704.15 already requires that

[17] 44 FR 49431 (Aug. 23, 1979).

[18] *But, see, id.* at 49433 (Explaining that the criteria listed in 725.4(b)(6) was "added in response to concerns expressed to the NCUA that 'political considerations' have, in the past, played a significant rule in the operations of central credit unions.").

federally insured corporate credit unions provide independently audited financial statements to the NCUA. The Board believes duplicating that requirement in current § 725.4(d) is redundant and unnecessary. No such requirement exists, however, for non-federally insured corporate credit unions. Accordingly, to eliminate outdated, duplicative, and unnecessary regulatory requirements, the Board is proposing to revise the language in current § 725.4(d) to limit its application to only non-federally insured corporate credit unions. Accordingly, the Board is proposing to revise the language in current paragraph (d) to provide that each non-federally insured Agent, or in the case of an Agent group, each non-federally insured corporate credit union in the group, must have on an annual basis a third-party independent audit of its books and records and provide the CLF with copies of the report of such audit. The proposed language would provide further that the auditor selected must be recognized by a State or territorial licensing authority as possessing the requisite knowledge and experience to perform audits. Consistent with other edits discussed above to § 725.4, current paragraph (d) would be renumbered as paragraph (c).

K. Limit on CLF advances for six months after membership under § 725.4(f).

Current § 725.4(f) provides that a corporate credit union or group of corporate credit unions which becomes an Agent member of the CLF after February 23, 1980, may not receive a CLF advance without approval of the CLF for a period of six months after becoming a member. The date, February 23, 1980, has long since past and is no longer necessary in paragraph (f). Accordingly, to streamline the NCUA's CLF regulations and eliminate outdated and unnecessary provisions, the Board is proposing to remove the reference to February 23, 1980, in its entirety. No substantiative changes to the requirements of paragraph (f) are intended by this amendment. Consistent with the other

edits discussed above to § 725.4, current paragraph (f) would be renumbered as paragraph (e).

L. Payments to the capital stock subscription under § 725.5(b)(2).

Current § 725.5(b)(2) requires, among other things, that payments for adjustments to the capital stock subscription must be received by the CLF no later than March 31 of the following year. This timing requirement is overly restrictive and has led to unnecessarily difficult turn-round times for both CLF members and CLF staff. The NCUA Board believes that providing additional time for calculating, processing, and making such payments would benefit CLF members and CLF staff. Accordingly, the NCUA is proposing to amend the last sentence in current § 725.5(b)(2) to provide that payments for adjustments must be received within 90 calendar days of receipt of a capital stock subscription invoice from the CLF.

M. Termination of Membership under 725.6.

The April 29th IFR amended the waiting periods for a credit union to terminate its membership in the CLF between April 29, 2020, and January 1, 2022. Under the FCU Act and prior § 725.6 of the NCUA's regulations, a credit union member could terminate its membership after a specified time based on that credit union's stock subscription in the CLF. Previously, a member of the CLF could terminate its membership as follows:

1. Six months after notifying the Board in writing of its intention to do so, if the member's stock subscription constituted less than five percent of total subscribed CLF stock; or

2. Twenty-four months after notifying the Board in writing of its intention to do so if the member's stock subscription constituted five percent or more of total subscribed CLF stock.[19]

The April 29th IFR amended § 725.6 to temporarily permit a credit union, regardless of its percentage amount of stock subscription, to withdraw from membership in the CLF after notifying the Board in writing on the earlier of the following:

(A) six months from the date of its written notice to the Board; or

(B) December 31, 2020.

Further, the April 29th IFR amended the NCUA's regulations to allow any credit union that remained a member after December 31, 2020, to withdraw from membership immediately upon notifying the Board in writing of its intent to do so. The Board noted that such an immediate withdrawal period would expire on December 31, 2021. After December 31, 2021, the termination requirements of current paragraphs (a) and (b) of this section would be reinstated and apply to all members. The Board believed that this flexibility was necessary to encourage the greatest number of eligible credit unions to join the CLF.

The March 24th IFR extended the termination of membership provisions described above until January 1, 2023. Pursuant to self-executing language in the April 29th IFR and the March 24th IFR, the provisions expired on January 1, 2023, and were removed from § 725.6 of the NCUA's regulations by the *Federal Register* in 2023. Thus, this proposed rule would not affect these provisions.

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[19] 12 CFR 725.6.

N. Agent member borrowing under § 725.17(b)(2)(iv).

The April 29th IFR amended § 725.17 to add new paragraph (b)(2)(iv), which clarified that an agent may apply for a CLF advance based on the applicant agent's own liquidity needs. Pursuant to the extensions provided by the CAA, the Board's March 24th IFR amended paragraph (b)(2)(iv) further to provide that an agent may apply for a CLF advance based on the applicant agent's own liquidity needs, for the period beginning April 29, 2020, and ending on December 31, 2021. The March 24th IFR provided further that, after this period, an agent is prohibited from submitting an application for an extension for its own liquidity needs. Given the provision in current paragraph (b)(2)(iv) ended by its own terms on December 31, 2021, this proposal would amend § 725.17 to remove the paragraph from the NCUA's regulations.

O. Applications for extensions of credit under § 725.17(a) and (b).

Current § 725.17(a) provides that a Regular member may apply for a CLF advance to meet its liquidity needs by filing an application on a CLF-approved form, or by any other method approved by the CLF. Current § 725.17(b)(1) provides in relevant part that an Agent member may apply for a CLF advance by filing an application on a CLF-approved form, or by any other method approved by the CLF. Footnote 4 at the end of paragraph (b)(1) provides further that if the Agent is an Agent group, the application must be filed by the Agent group representative, and any CLF advance will be made to the Agent group representative. To streamline the NCUA's CLF regulations and eliminate outdated and unnecessary provisions, the Board is proposing to merge the language in paragraphs (a) and (b)(1) into a revised paragraph (a) and to also incorporate into revised paragraph (a) the text of footnote 4. Proposed § 725.17(a) would provide that a Regular member or Agent member may apply for a CLF advance to meet its liquidity needs by filing an application on a CLF-approved form, or by any other method approved

by the CLF. Proposed paragraph (a) would provide further that if the Agent is an Agent group, the application must be filed by the Agent group representative and the advance will be made to the representative.

P. Agent member borrowing under §§ 725.18 and 725.19.

The April 29th IFR made conforming changes to §§ 725.18 and 725.19 to clarify the requirements applicable to a CLF advance to an agent for such agent's own needs. In particular, the IFR amended § 725.18(a) to provide that, prior to CLF approval of each application of a regular member for a CLF advance or an agent member for a CLF advance for such agent member's own need, the CLF shall consider the creditworthiness of such member. The Board's March 24th IFR clarified paragraph (a) to provide that, prior to CLF approval of each application of a regular member for a CLF advance or an agent member for a CLF advance for such agent member's own need (provided such agent may submit an application under § 725.17(b)(2)(iv)), the CLF shall consider the creditworthiness of such member. Given the provisions in § 725.17(b)(2)(iv) lapsed on January 1, 2022, this proposal would amend current § 725.18(a) to remove the conforming and clarifying changes made by both the April 29th IFR and the March 24th IFR. Accordingly, current paragraph (a) would provide that, prior to CLF approval of each application of a regular member for a CLF advance, the CLF shall consider the creditworthiness of such member.

In addition, the April 29th IFR amended § 725.18(d) to provide that a credit union (whether a regular member of the CLF, agent member, or a member natural person credit union) that does not meet the CLF's creditworthiness standards may be limited in or denied the use of advances for its liquidity needs. The March 24th IFR clarified paragraph (d) to provide that a credit union (whether a regular member of the CLF, agent member (provided such agent may submit an application under § 725.17(b)(2)(iv), or a member

natural person credit union) which does not meet the CLF's creditworthiness standards may be limited in or denied the use of advances for its liquidity needs. Given the provisions in § 725.17(b)(2)(iv) lapsed on January 1, 2022, this proposal would amend current § 725.18(d) to remove the conforming and clarifying changes made by both the April 29th IFR and the March 24th IFR. Accordingly, current paragraph (d) would provide that a natural person credit union (whether a regular member of the CLF or a member natural person credit union) which does not meet the CLF's creditworthiness standards may be limited in or denied the use of advances for its liquidity needs.

The April 29th IFR also made conforming changes to § 725.19(a) to provide that each CLF advance and each agent loan shall be secured by a first priority security interest in collateral of the credit union with a net book value at least equal to an amount as required by the CLF's collateral table, published at *www.NCUA.gov,* or by guarantee of the National Credit Union Share Insurance Fund (NCUSIF). The amendments to paragraph (a) also reduced the amount of collateral required for certain assets used to secure each CLF advance and each agent loan. Section 725.19 previously required that each CLF advance and each agent loan be secured by a first priority security interest in collateral of the credit union with a net-book value at least equal to 110 percent of all amounts due under the applicable CLF advance or agent loan, or by guarantee of the NCUSIF. The collateral table varies the required collateral percentages based upon different types of assets, and in some cases requires less than 110 percent. Depending on the types of assets a member has available to secure an advance request, lowering the collateral requirement for certain types of assets eased the collateral requirements and permitted a greater amount of borrowing overall. The Board replaced the 110 percent requirement with a requirement that a credit union collateralize a CLF advance or agent loan per the CLF collateral table posted on the NCUA's website, *www.NCUA.gov.* This

proposed rule would adopts as final the conforming changes to § 725.19(a) by the April 29th IFR.

The April 29th IFR also made conforming changes to § 725.19(b) to provide that the CLF may accept as collateral for each CLF advance to a regular member or to an agent member, for such agent member's own needs, a security interest in all assets of the member; provided, however, that the value of any assets in which any third party has a perfected security interest that is superior to the security interest of the CLF shall be excluded for purposes of complying with the requirements. Given the provisions in § 725.17(b)(2)(iv) lapsed on January 1, 2022, this proposal would amend current § 725.19(b) to remove the conforming changes made by the April 29th IFR. Accordingly, § 725.19(b) would provide that the CLF may accept as collateral for each CLF advance to a regular member, a security interest in all assets of the regular member; provided, however, that the value of any assets in which any third party has a perfected security interest that is superior to the security interest of the CLF shall be excluded for purposes of complying with the requirements.

Q. Collateral requirements under § 725.19(a).

Current § 725.19(a) provides that each CLF advance and each Agent loan shall be secured by a first-priority security interest in collateral of the credit union with a net value at least equal to an amount as required by the CLF's collateral margins table, published at *www.NCUA.gov,* or by guarantee of the National Credit Union Share Insurance Fund. To account for the CLF's preferred use of terminology with regard to the terms "net book value" and "collateral table," the proposed rule would amend § 725.19(a) to instead use the more commonly used terms "net value" and "collateral margins table." Accordingly, the proposal would amend § 725.19(a) to provide that each CLF advance and each agent loan shall be secured by a first-priority security interest in collateral of the

credit union with a net value at least equal to an amount as required by the CLF's collateral margins table, published at *www.NCUA.gov,* or by guarantee of the NCUSIF.

III. Regulatory Procedures

A. Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) (Act) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov).

The proposed rule would adopt as final the revisions to the CLF rule made under two IFRs published on April 29, 2020, and March 24, 2021. The proposal would adopt the amendments made by these IFRs and, where appropriate, would remove provisions from the NCUA's regulations that have lapsed under the terms of the IFRs. The proposal would also remove or modify certain filing requirements and criteria the Board uses to approve CLF members. Finally, the proposal would amend the timing requirements related to pay adjustments to the capital stock subscription, clarify various regulatory provisions, and make necessary conforming edits.

The proposal and the required summary can be found at https://www.regulations.gov.

B. Executive Orders 12866, 13563, 14192

Pursuant to Executive Order 12866 ("Regulatory Planning and Review"), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Information and Regulatory Affairs (OIRA), within the

Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.[20] Executive Order 13563 ("Improving Regulation and Regulatory Review") supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.[21] This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OIRA has determined that this proposed rule is not a "significant regulatory action" as defined by section 3(f) of Executive Order 12866.

Executive Order 14192 ("Unleashing Prosperity Through Deregulation") requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.[22] This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act[23] generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the agency makes such a certification, it shall publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.[24] For purposes of this analysis, the NCUA considers small credit unions to

[20] 58 FR 51735 (Oct. 4, 1993).
[21] 76 FR 3821 (Jan.21, 2011).
[22] 90 FR 9065 (Feb. 6, 2025).
[23] 5 U.S.C. 601 *et seq*.
[24] 5 U.S.C. 605(b).

be those having under $100 million in assets.[25] The Board fully considered the potential economic impacts of the regulatory amendments on small credit unions.

This proposed rule would adopt certain IFR changes as final and remove certain criteria the Board requires to approve CLF members. These amendments would not impose any requirements on regulated entities, particularly not small entities. Accordingly, the NCUA certifies the proposed rule would not have a significant economic impact on a substantial number of small credit unions.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) generally provides that an agency may not conduct or sponsor, and not withstanding any other provision of law, a person is not required to respond to, a collection of information, unless it displays a currently valid Office of Management and Budget control number. The PRA applies to rulemakings in which an agency creates a new or amends existing information collection requirements. For purposes of the PRA, an information-collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The NCUA has determined that the changes addressed in this notice do not create a new information collection or revise an existing information collection as defined by the PRA.

E. Executive Order 13132 on Federalism

Executive Order 13132 encourages certain agencies to consider the impact of their actions on state and local interests. The proposed rule would adopt as final the amendments made by two IFRs and, where appropriate, removes provisions from the NCUA's regulations that have lapsed under the terms of the IFRs. In addition, the

[25] 80 FR 57512 (Sept. 24, 2015).

proposed rule would remove certain criteria the Board requires to approve CLF members. Any 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 does not rise to the level of material impact for purposed of Executive Order 13132.

F. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed 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) given that the proposed rule would implement changes already made to the NCUA's regulations through the April 29, 2020, and March 24, 2021 IFRs, and would remove certain criteria the Board requires to approve CLF members.

List of Subjects in 12 CFR Part 725

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board, this 13th day of October, 2026.

Melane Conyers-Ausbrooks
Secretary of the Board

For the reasons discussed above, the Board proposes to amend 12 CFR part 725 as follows:

PART 725 – NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

1. The authority citation for part 725 continues to read as follows:

Authority: 12 U.S.C. 1795f(a)(2).

2. Amend § 725.2 by:

a. Removing paragraph designations (a) through (p) and placing each definition in alphabetical order;

b. Removing the definition of "facility lending officer;" and

c. Revising the definition of "liquidity needs".

The revisions read as follows:

§725.2 Definitions.

* * * * *

Liquidity needs means the needs of credit unions primarily serving natural persons for:

(1) Short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

(2) Seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

(3) Protracted adjustment credit available in the event of unusual or emergency circumstances of a longer-term nature resulting from national, regional or local difficulties.

* * * * *

3. Revise and republish § 725.3 to read as follows:

§725.3 Regular membership.

(a) A natural person credit union may become a Regular member of the Facility by:

(1) Making application on a form approved by the Facility;

(2) Subscribing to capital stock of the Facility in an amount equal to one-half of 1 percent of the credit union's paid-in and unimpaired capital and surplus, as determined in accordance with § 725.5(b) of this part, and forwarding with its completed application funds equal to one-half of this stock subscription; and

(3) In the case of a non-federally insured natural-person credit union not otherwise subject to examination by the NCUA, the CLF may require that the credit union provide financial reports and other information to determine the financial condition of the credit union.

(b) [Reserved]

4. Revise and republish § 725.4 to read as follows:

§ 725.4 Agent Membership.

(a) A corporate credit union or a group of corporate credit unions may become an Agent member of the Facility by (in the case of a group of corporate credit unions, each corporate credit union in the group must do each of the following except for paragraph (a)(2) of this section, which shall be done by the Agent group representative):

(1) Making application on a form approved by the Facility;

(2) Subscribing to the capital stock of the Facility in an amount equal to one-half of 1 percent of the paid-in and unimpaired capital and surplus (as determined in accordance with § 725.5(b) of this part) of all the corporate credit union's or corporate credit union group's member natural person credit unions, except those which are Regular members of the Facility or which have access to the Facility through, and are included in the stock subscription of, another Agent (a natural person credit union which is a member

of more than one Agent member of the Facility must designate through which Agent it will deal with the Facility, and the designated Agent will be responsible for including the capital and surplus of such credit union in the calculation of its stock subscription). Upon approval of the application, the Agent shall forward funds equal to one-half of this initial stock subscription to the Facility; and

(3) In the case of a non-federally insured corporate credit union not otherwise subject to examination by the NCUA, the CLF may require that the credit union provide financial reports and other information to determine the financial condition of the credit union.

(b) Each Agent, or in the case of an Agent group, each corporate credit union in the group, must:

(1) Maintain records related to Facility activity in conformity with requirements prescribed by the Facility from time to time; and

(2) Submit such reports as may be required by the Facility to determine financial soundness, quality and level of service, and conformity with established guidelines and procedures.

(c) Each non-federally insured Agent, or in the case of an Agent group, each non-federally insured corporate credit union in the group, must have on an annual basis a third-party independent audit of its books and records and provide the Facility with copies of the report of such audit. The auditor selected must be recognized by a State or territorial licensing authority as possessing the requisite knowledge and experience to perform audits.

(d) Within 30 days after a natural person credit union becomes a member of a corporate credit union which is an Agent or a member of an Agent group, the Agent, or in the case of an Agent group, the Agent group representative, shall subscribe to additional capital stock of the Facility in an amount equal to one-half of 1 percent of such credit

union's paid-in and unimpaired capital and surplus, and shall forward funds equal to one-half of this stock subscription to the Facility. This subsection shall not apply if the natural person credit union is a Regular member of the Facility or has access to the Facility through, and is included in the stock subscription of, another Agent.

(e) A corporate credit union or group of corporate credit unions which becomes an Agent member of the Facility, may not receive a Facility advance without approval of the Facility for a period of six months after becoming a member. This subsection shall not apply to any credit union which becomes an Agent member or a member of an Agent group within six months after such credit union is chartered or within six months after such credit union has been an Agent or a member of another Agent group.

(f) Agent members will be compensated for the services they perform for the Facility in a manner to be specified by the Facility.

5. Amend § 725.5 by:

a. Removing the term “NCUA Board” each place it appears and replacing it with “Facility;” and

b. Revising paragraph (b)(2).

The revision reads as follows:

§ 725.5 Capital stock.

* * * * *

(b) * * * (2) Adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in and unimpaired capital and surplus over the twelve months in such calendar year. Payments for adjustments must be received within 90 calendar days of receipt of a capital stock subscription invoice from the facility.

* * * * *

6. Amend § 725.6 by:

a. Amending paragraphs (a) and (b) by removing the term “NCUA Board” each place it appears and replacing it with “Facility;” and

b. Revising paragraph (c).

The revision reads as follows:

§ 725.6 Termination of Membership.

* * * * *

(c) The NCUA Board may terminate membership in the Facility if, after the opportunity for a hearing, the NCUA Board determines the member has failed to comply with any provision of Title III of the Federal Credit Union Act or any regulation issued pursuant thereto. If membership is terminated under this subsection, the credit union will be required to obtain the approval of the Facility before becoming a member of the Facility again. Such approval will be granted only if the Facility is satisfied that the credit union will comply with such Act and regulations.

* * * * *

7. Amend § 725.17 by:

a. Removing footnote 4; and

b. Revising paragraphs (a), (b), and (d).

The revisions read as follows:

§ 725.17 Applications for extensions of credit.

(a) A Regular member or Agent member may apply for a Facility advance to meet its liquidity needs by filing an application on a Facility-approved form, or by any other method approved by the Facility. If the Agent is an Agent group, the application must be filed by the Agent group representative, and the advance will be made to the representative.

(b) (1) The Agent's application shall be based on the following:

(i) Approved applications to the Agent by its member natural person credit unions for pending loans to meet liquidity needs;

(ii) Outstanding loans previously made by the Agent to meet liquidity needs of its member natural person credit unions; or

(iii) Such other demonstrable liquidity needs as the Facility may specify.

(2) An Agent shall not submit an application to the Facility based on the liquidity needs of any member natural person credit union which has not agreed to the repayment, security and credit reporting terms prescribed by the Facility for Agent loans;

(3) Any loan to meet liquidity needs which have been or will be the basis for an application by the Agent for a Facility advance must be applied for on an application form approved by the Facility.

(4) Unless approved by the Facility, an Agent shall not submit an application to the Facility based on the liquidity needs of any credit union which became a member natural person credit union of the Agent after February 2, 1980, unless such credit union has been a member natural person credit union of the Agent for six months, was chartered within six months before becoming a member natural person credit union of the Agent, or had access to the Facility either as a Regular member or through another Agent within six months before becoming a member natural person credit union of the Agent.

* * * * *

(d) Applications of Regular and Agent members shall be filed with the Facility. Each application for credit which is completed and properly filed will be approved or denied within five working days after the day of receipt.

8. In § 725.18, revise paragraph (a) and (d) to read as follows:

§ 725.18 Creditworthiness.

(a) Prior to Facility approval of each application of a Regular member for a Facility advance, the Facility shall consider the creditworthiness of such member.

* * * * *

(d) A natural person credit union (whether a Regular member of the Facility or a member natural person credit union) which does not meet the Facility's creditworthiness standards may be limited in or denied the use of advances for its liquidity needs.

9. In § 725.19, revise paragraphs (a) and (b) to read as follows:

§ 725.19 Collateral requirements.

(a) Each Facility advance and each Agent loan shall be secured by a first-priority security interest in collateral of the credit union with a net value at least equal to an amount as required by the Facility's collateral margins table, published at www.NCUA.gov, or by guarantee of the National Credit Union Share Insurance Fund.

(b) The Facility may accept as collateral for each Facility advance to a Regular member, a security interest in all assets of the Regular member; provided, however, that the value of any assets in which any third party has a perfected security interest that is superior to the security interest of the Facility shall be excluded for purposes of complying with the requirements of paragraph (a) of this section.

* * * * *

10. Revise § 725.22 to read as follows:

§ 725.22 Advances to insurance organizations.

(a) In accordance with policies established by the Facility, it may advance funds to a State-credit-union share or deposit insurance corporation, guaranty credit union, guaranty association, or similar organization. Requests for such advances shall be supported by an application which sets forth and supports the need for the advance.

(b) Advances under paragraph (a) of this section shall be subject to the approval of the Facility and shall be made subject to the following terms:

(1) The advance shall be fully secured,

(2) The maturity of the advance shall not exceed 12 months,

(3) The advance shall not be renewable at maturity, and

(4) The funds advanced shall not be relent at an interest rate exceeding that imposed by the Facility.

§ 725.23 [Amended]

11. Amend § 725.23 by removing the term “NCUA Board” each place it occurs and replacing it with “Facility.”

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