

National Credit Union Administration

Pt. 704, App. B

APPENDIX A TO PART 704—MODEL FORMS

This appendix contains sample forms intended for use by corporate credit unions to aid in compliance with the membership capital account and paid-in capital disclosure requirements of §704.3.

Sample Form 1

Terms and Conditions of Membership Capital Account

(1) A membership capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A membership capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the membership capital account transfers to the continuing credit union. In the event of a charter conversion, the membership capital account transfers to the new institution. In the event of liquidation, the membership capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) A member credit union may withdraw membership capital with three years' notice.

(4) Membership capital cannot be used to pledge borrowings.

(5) Membership capital is available to cover losses that exceed retained earnings and paid-in capital.

(6) Where the corporate credit union is liquidated, membership capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

(7) Where the corporate credit union is merged into another corporate credit union, the membership capital account will transfer to the continuing corporate credit union. The three-year notice period for withdrawal of the membership capital account will remain in effect.

(8) {If an adjusted balance account}: The membership capital balance will be adjusted (1 or 2) time(s) annually in relation to the member credit union's (assets or other measure) as of (date(s)). {If a term certificate}: The membership capital account is a term certificate that will mature on (date).

I have read the above terms and conditions and I understand them.

I further agree to maintain in the credit union's files the annual notice of terms and conditions of the membership capital account.

The notice form must be signed by either all of the directors of the member credit union or, if authorized by board resolution,

the chair and secretary of the board of the credit union.

The annual disclosure notice form must be signed by the chair of the corporate credit union. The chair must then sign a statement that certifies that the notice has been sent to member credit unions with membership capital accounts. The certification must be maintained in the corporate credit union's files and be available for examiner review.

Sample Form 2

Terms and Conditions of Paid-In Capital

(1) A paid-in capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A paid-in capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the paid-in capital account transfers to the continuing credit union. In the event of a charter conversion, the paid-in capital account transfers to the new institution. In the event of liquidation, the paid-in capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) The funds are callable only at the option of the corporate credit union and only if the corporate credit union meets its minimum required capital and NEV ratios after the funds are called.

(4) Paid-in capital cannot be used to pledge borrowings.

(5) Paid-in capital is available to cover losses that exceed retained earnings.

(6) Where the corporate credit union is liquidated, paid-in capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF, and membership capital holders.

(7) Where the corporate credit union is merged into another corporate credit union, the paid-in capital account will transfer to the continuing corporate credit union.

(8) Paid-in capital is perpetual maturity and noncumulative dividend.

I have read the above terms and conditions and I understand them. I further agree to maintain in the credit union's files the annual notice of terms and conditions of the paid-in capital instrument.

The notice form must be signed by either all of the directors of the credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

[67 FR 65657, Oct. 25, 2002]

APPENDIX B TO PART 704—EXPANDED AUTHORITIES AND REQUIREMENTS

A corporate credit union may obtain all or part of the expanded authorities contained in

this appendix if it meets the applicable requirements of Part 704 and appendix B, fulfills additional management, infrastructure, and asset and liability requirements, and receives NCUA's written approval. Additional guidance is set forth in the NCUA publication Guidelines for Submission of Requests for Expanded Authority.

A corporate credit union seeking expanded authorities must submit to NCUA a self-assessment plan supporting its request. A corporate credit union may adopt expanded authorities when NCUA has provided final approval. If NCUA denies a request for expanded authorities, it will advise the corporate credit union of the reason(s) for the denial and what it must do to resubmit its request. NCUA may revoke these expanded authorities at any time if an analysis indicates a significant deficiency. NCUA will notify the corporate credit union in writing of the identified deficiency. A corporate credit union may request, in writing, reinstatement of the revoked authorities by providing a self-assessment plan detailing how it has corrected the deficiency.

Minimum Requirement

In order to participate in any of the authorities set forth in Base-Plus, Part I, Part II, Part III, Part IV, and Part V of this appendix, a corporate credit union must evaluate monthly the changes in NEV and the NEV ratio for the tests set forth in §704.8(d)(1)(i).

BASE-PLUS

A corporate that has met the requirements for this Base-plus authority may, in performing the rate stress tests set forth in §704.8(d)(1)(i), allow its NEV to decline as much as 20 percent.

PART I

(a) A corporate credit union that has met the requirements for this Part I may:

- (1) Purchase investments with long-term ratings no lower than A– (or equivalent);
- (2) Purchase investments with short-term ratings no lower than A–2 (or equivalent), provided that the issuer has a long-term rating no lower than A– (or equivalent) or the investment is a domestically-issued asset-backed security;
- (3) Engage in short sales of permissible investments to reduce interest rate risk;
- (4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk; and
- (5) Enter into a dollar roll transaction.

(b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 300 percent of capital.

(c) In performing the rate stress tests set forth in §704.8(d)(1)(i), the NEV of a cor-

porate credit union that has met the requirements of this Part I may decline as much as:

- (1) 20 percent;
- (2) 28 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA; or
- (3) 35 percent if the corporate credit union has a 6 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 100 percent of the corporate credit union's capital. The board of directors must establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

PART II

(a) A corporate credit union that has met the requirements for this Part II may:

- (1) Purchase investments with long-term ratings no lower than BBB (flat) (or equivalent). The aggregate of all investments rated BBB+ (or equivalent) or lower in any single obligor is not to exceed 25 percent of capital;
 - (2) Purchase investments with short-term ratings no lower than A–2 (or equivalent), provided that the issuer has a long-term rating no lower than BBB (flat) (or equivalent) or the investment is a domestically issued asset-backed security;
 - (3) Engage in short sales of permissible investments to reduce interest rate risk;
 - (4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk; and
 - (5) Enter into a dollar roll transaction.
- (b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 400 percent of capital.

(c) In performing the rate stress tests set forth in §704.8(d)(1)(i), the NEV of a corporate credit union which has met the requirements of this Part II may decline as much as:

- (1) 20 percent;
- (2) 28 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA; or
- (3) 35 percent if the corporate credit union has a 6 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 100 percent of the corporate credit union's capital. The board of directors must establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

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PART III

(a) A corporate credit union that has met the requirements of either Part I or Part II of this appendix and the additional requirements for Part III may invest in:

- (1) Debt obligations of a foreign country;
- (2) Deposits and debt obligations of foreign banks or obligations guaranteed by these banks;
- (3) Marketable debt obligations of foreign corporations. This authority does not apply to debt obligations that are convertible into the stock of the corporation; and
- (4) Foreign issued asset-backed securities.

(b) All foreign investments are subject to the following requirements:

- (1) Investments must be rated no lower than the minimum permissible domestic rating under the corporate credit union's Part I or Part II authority;
- (2) A sovereign issuer, and/or the country in which an obligor is organized, must have a long-term foreign currency (non-local currency) debt rating no lower than AA- (or equivalent);
- (3) For each approved foreign bank line, the corporate credit union must identify the specific banking centers and branches to which it will lend funds;
- (4) Obligations of any single foreign obligor may not exceed 50 percent of capital; and
- (5) Obligations in any single foreign country may not exceed 250 percent of capital.

PART IV

(a) A corporate credit union that has met the requirements for this Part IV may enter into derivative transactions specifically approved by NCUA to:

- (1) Create structured products;
- (2) Manage its own balance sheet; and
- (3) Hedge the balance sheets of its members.

(b) Credit Ratings:

(1) All derivative transactions are subject to the following requirements:

(i) If the counterparty is domestic, the counterparty rating must be no lower than the minimum permissible rating for comparable term permissible investments; and

(ii) If the counterparty is foreign, the corporate must have Part III expanded authority and the counterparty rating must be no lower than the minimum permissible rating for a comparable term investment under Part III Authority.

(iii) Any rating(s) relied upon to meet the requirements of this part must be identified at the time the transaction is entered into and must be monitored for as long as the contract remains open.

(iv) Section 704.10 of this part if:

(A) one rating was relied upon to meet the requirements of this part and that rating is downgraded below the minimum rating requirements of this part; or

(B) two or more ratings were relied upon to meet the requirements of this part and at least two of those ratings are downgraded below the minimum rating requirements of this part.

(2) Exceptions. Credit ratings are not required for derivative transactions with:

- (i) Domestically chartered credit unions;
- (ii) U.S. government sponsored enterprises; or
- (iii) Counterparties if the transaction is fully guaranteed by an entity with a minimum permissible rating for comparable term investments.

PART V

A corporate credit union that has met the requirements for this Part V may participate in loans with member natural person credit unions as approved by the OCCU Director and subject to the following:

(a) The maximum aggregate amount of participation loans with any one member credit union must not exceed 25 percent of capital; and

(b) The maximum aggregate amount of participation loans with all member credit unions will be determined on a case-by-case basis by the OCCU Director.

[67 FR 65658, Oct. 25, 2002]

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

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AUTHORITY: 12 U.S.C. 1772c-1; 42 U.S.C. 9822 and 9822 note.

SOURCE: 58 FR 21646, Apr. 23, 1993, unless otherwise noted.

§ 705.0 Applicability.

Monies from the Community Development Revolving Loan Fund for Credit Unions are governed by this part.

§ 705.1 Scope.

(a) This part implements the Community Developments Revolving Loan Program for Credit Unions (Program)