

National Credit Union Administration

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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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- 705.0 Applicability.
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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)

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under the sole administration of the National Credit Union Administration.

(b) This part establishes the following:

- (1) Definitions;
- (2) The application process and requirements for qualifying for a loan under the program;
- (3) How loan funds are to be made available and their repayment; and
- (4) Technical assistance to be provided to participating credit unions.

§ 705.2 Purpose of the program.

(a) The Community Development Revolving Loan Program for Credit Unions is intended to support the efforts of participating credit unions through loans and technical assistance to those credit unions in:

- (1) Providing basic financial and related services to residents in their communities; and
- (2) Stimulating economic activities in the communities they service which will result in increased income, ownership and employment opportunities for low-income residents, and other community growth efforts.

(b) The policy of NCUA is to revolve loan funds to qualifying credit unions as often as practical in order to gain maximum economic impact on as many participating credit unions as possible.

§ 705.3 Definitions.

(a) The term “low-income members” means those members defined in § 701.34 of this chapter.

(b) For purposes of this part, a *participating credit union* means a state- or federally-chartered credit union that is specifically involved in the stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves; whose membership consists of predominantly low-income members as defined in paragraph (a) of this section or applicable state standards as reflected by a current low-income designation pursuant to § 701.34(a)(1) or § 741.204 of this chapter or, in the case of a state-chartered nonfederally insured credit union, under applicable state standards; and has submitted an application for a loan and/or technical assistance and has been selected for

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participation in the Program in accordance with this part.

[58 FR 21646, Apr. 23, 1993, as amended at 60 FR 58504, Nov. 28, 1995; 61 FR 50695, Sept. 27, 1996; 69 FR 45237, July 29, 2004; 73 FR 71913, Nov. 26, 2008]

§ 705.4 Program activities.

In order to meet the objectives of the Program, a credit union applicant should provide a variety of financial and related services designed to meet the particular needs of the low-income community served. These activities shall include basic member share account and member loan services.

§ 705.5 Application for participation.

(a) Applications to participate and qualify for a loan or technical assistance under the Program may be obtained from the National Credit Union Administration, Community Development Revolving Loan Program For Credit Unions.

(b) The application for a loan shall contain the following information:

(1) Information demonstrating a sound financial position and the credit union’s ability to manage its day-to-day business affairs, including the credit union’s latest financial statement. A nonfederally insured credit union must include the following:

(i) A copy of its most recent outside audit report;

(ii) Proof of deposit and surety bond insurance which states the maximum insurance levels permitted by the policies;

(iii) A balance sheet, an income and expense statement, and a schedule of delinquent loans, for the most recent month-end and each of the twelve months preceding that month-end.

(2) Evidence that the credit union has a need for increased funds in order to improve financial services to its members.

(3) The following information concerning a state-chartered credit union’s field of membership:

(i) Current field of membership as set forth in the credit union’s charter;

(ii) Changes, if any, to be made to the field of membership for participation in the Program, including;

(A) Evidence of approval of change by credit union board of directors;

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(B) Evidence of submission and approval of change by the state supervisor;

(iii) Current designation as a low-income credit union if the credit union is not federally insured.

(4) Along with a community needs plan, specifics of how the credit union proposes to serve the needs of its members and the community with Program funds. The applicant credit union will also construct and submit a plan for its growth and development. The plan will set forth objectives for financial growth, credit union development and capitalization, and the means for achieving these objectives.

(5) Indication of any other involvement in existing community development programs of state and federal agencies.

(c) NCUA will notify applicant credit unions as to whether or not they have qualified for a loan or technical assistance under this part. Reasons for non-qualification will be stated. Any applicant whose qualification is denied may appeal that decision to the NCUA Board.

[58 FR 21646, Apr. 23, 1993, as amended at 61 FR 50695, Sept. 27, 1996; 73 FR 30477, May 28, 2008]

§ 705.6 Community needs plan.

(a) The credit union's board of directors will prepare a Community Needs Plan and submit it with its loan application. The Plan will contain a list of needed community services that the credit union will provide.

(b) The credit union's board of directors will report on the progress of providing needed community services to the credit union members once a year, either at the annual meeting or in a written report sent to all members. The credit union will also submit the written report or a summary of the report given at the annual meeting to NCUA.

§ 705.7 Loans to participating credit unions.

(a) *Amount and recording of loans.* A participating credit union will be eligible to receive up to \$300,000 in the aggregate, as determined by the NCUA Board, in the form of a loan from the Community Development Revolving

Loan Fund for Credit Unions. The amount of the loan will be based on funds availability, the creditworthiness of the participating credit union, financial need, and a demonstrated capability of a participating credit union to provide financial and related services to its members. At the discretion of NCUA, a loan will be recorded by a participating credit union as either a note payable or a nonmember deposit.

(b) *Matching requirements.* Participating credit unions will be encouraged to develop, as rapidly as possible, a permanent source of member shares.

(1) Generally loan monies made available must be matched by the participating credit union by increasing its share deposits in an amount equal to the loan amount. However, any loan monies matched by member share deposits will be credited as a two-for-one match. Nonmember share deposits accepted to meet the matching requirement are not subject to the 20% limitation on nonmember deposits under § 701.32. Participating credit unions must meet this matching requirement within one year of the approval of the loan application and must maintain the increase in the total amount of share deposits for the duration of the loan. Once the loan is repaid, nonmember share deposits accepted to meet the matching requirement are subject to § 701.32.

(2) Upon approval of its loan application, and before it meets its matching requirement, a participating credit union may receive the entire loan commitment in a single payment. If any funds are withheld, the remainder of the funds committed will be available to the participating credit union only after it has documented that it has met the match requirement for the total amount of the loan committed.

(3) Failure of a participating credit union to generate the required match within one year of the approval of the loan will result in the reduction of the loan proportionate to the amount of match actually generated. Payment of any additional funds initially approved will be limited as appropriate to reflect the revised amount of the loan approved. Any funds already advanced to the participating credit union in excess of the revised amount of loan approval

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must be repaid immediately to NCUA. Failure to repay such funds to NCUA upon demand shall result in the default of the entire loan.

(c) *Terms and repayment.* (1) Assistance made available through Program loans, whether recorded by the credit union as a note payable or nonmember deposit at NCUA's direction, is in the form of a loan and must be repaid to NCUA. All loans will be scheduled for repayment within the shortest time compatible with sound business practices and with objectives of the Program, but in no case will the term exceed five years.

(2) Semiannual interest payments (beginning six months after the initial distribution of a loan) and semiannual principal payments (beginning one year after the initial distribution of a loan) will be required.

(d) *Interest rates.* Loans made under this part shall bear interest at a fixed annual percentage rate of not more than 3 percent and not less than 1 percent as determined by the NCUA Board.

(e) *Default, collections and adjustments.* The terms of each loan agreement shall provide for the immediate acceleration of the unpaid balance for breach or default in the performance by the participating credit union of the terms or conditions of the loan. This will include misrepresentation, default in making interest/principal payments, failure to report, insolvency, failure to maintain adequate match for the duration of the loan period, etc. The unpaid balance will also be accelerated and immediately due if any part of the loan funds are improperly used, or if uninvested loan proceeds remain unused for an unreasonable or unjustified period of time.

[58 FR 21646, Apr. 23, 1993, as amended at 61 FR 50696, Sept. 27, 1996]

§ 705.8 State-chartered credit unions.

State-chartered credit union loan applicants approved for participation by NCUA must obtain written concurrence from their respective state regulatory authority. Such applicants shall make copies of their state examination reports available to NCUA and shall agree to examination by NCUA for the

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limited purpose of compliance with this part.

§ 705.9 Application period.

NCUA will announce annually and publish in the FEDERAL REGISTER when applications for participation in the program may be submitted. Such notice will be dependent upon the availability of funds.

§ 705.10 Technical assistance.

NCUA may provide technical assistance to participating credit unions directly or through outside providers selected by the credit unions or NCUA. NCUA will base technical assistance on funds availability, the needs of the participating credit union, and a demonstrated capability of the participating credit union to provide financial and related services to its members. NCUA will consider applications for technical assistance and determine whether to grant them in accordance with established procedures and standards that are publicly available. Participating credit unions can be provided with technical assistance without obtaining a Program loan. NCUA technical assistance will aid participating credit unions in providing services to their members and in the efficient operation of such credit unions.

[61 FR 50696, Sept. 27, 1996, as amended at 65 FR 80299, Dec. 21, 2000]

PART 706—CREDIT PRACTICES (Eff. until 7-1-10)

Sec.

- 706.1 Definitions.
- 706.2 Unfair credit practices.
- 706.3 Unfair or deceptive cosigner practices.
- 706.4 Late charges.
- 706.5 State exemptions.

AUTHORITY: 15 U.S.C. 57a(f).

SOURCE: 52 FR 46586, Dec. 9, 1987, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 5575, Jan. 29, 2009, part 706 was revised, effective July 1, 2010. The revised text follows this part.

§ 706.1 Definitions.

(a) *Person.* An individual, corporation, or other business organization.