

## National Credit Union Administration

## § 745.203

(c) *Request for reconsideration.* An accountholder may, at his or her option, request reconsideration from the Liquidating Agent of the initial determination within 30 days of the date of the initial determination, or directly appeal the initial determination to the Board pursuant to § 745.202 of this subpart. The Liquidating Agent shall act on the request for reconsideration within 30 days from its receipt.

### § 745.202 Appeal.

(a) *Time for filing.* Within 60 days after issuance of an initial determination, or of the determination on a request for reconsideration by the liquidating agent, the accountholder may appeal by filing with the Board a written request for appeal. The appeal may be filed with the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428.

(b) *Content of request.* Any appeal must include:

(1) A statement of the facts on which the claim for insurance is based;

(2) A statement of the basis for the initial determination or determination on the request for reconsideration to which the accountholder objects and the alleged error in such determination, including citations to applicable statutes and regulations;

(3) Any other evidence relied upon by the accountholder which was not previously provided to the Liquidating Agent.

(c) *Procedures for review of request.* (1) Within 60 days of the date of the Board's receipt of an appeal, the Board may request in writing that the accountholder submit additional facts and records in support of its request. The accountholder shall have 45 days from the date of issuance of such written request to provide such additional information. Failure by the accountholder to provide additional information may, as determined solely by the Board, result in denial of the accountholder's appeal.

(2) Within 60 days from the date of the Board's receipt of an appeal, the accountholder may amend or supplement the request in writing. In the event that the accountholder does amend or supplement the request, the

provisions of paragraph (c)(1) of this section with respect to requests for additional information and responses to such requests shall apply with equal force to any such amendment or supplement to a request.

(d) *Determination on appeal.* (1) Within 180 days from the date of the receipt of an appeal by the Board, the Board shall issue a decision determining the extent of the accountholder's insurance pursuant to the rules of this part.

(2) The determination by the Board on appeal shall be provided to the accountholder in writing, stating the reason(s) for the determination, and shall constitute a final Agency order regarding the accountholder's claim for insurance.

(3) If the Board determines that the accountholder is entitled to the amount of insurance claimed or a portion thereof, upon payment of such insurance the accountholder shall promptly surrender to the Board the certificate of claim in liquidation provided in connection with the initial determination. In the event that the Board determines that the accountholder is only entitled to a portion of the amount of insurance claimed, upon the accountholder's surrender of such certificate a new certificate of claim in liquidation will be provided which reflects the revised amount of the uninsured account.

(4) Failure by the Board to issue a determination on appeal of the accountholder's claim for insurance within the 180-day period provided for under paragraph (d)(1) of this section, shall be deemed to be a denial of such claim for purposes of § 745.203 of this subpart.

[55 FR 5586, Feb. 16, 1990, as amended at 59 FR 36041, July 15, 1994]

### § 745.203 Judicial review.

(a) For purposes of seeking judicial review of actions taken pursuant to this subpart, only a determination on appeal issued by the Board pursuant to § 745.202 of this subpart shall constitute a final determination regarding an accountholder's claim for insurance.

(b) Failure to file an appeal with regard to an initial determination, or a decision rendered on a request for reconsideration with the applicable time

periods shall constitute a failure by the accountholder to exhaust available administrative remedies and, due to such failure, any objections to the initial determination or request for reconsideration shall be deemed to be waived and such determination shall be deemed to have been accepted by, and binding upon, the accountholder.

(c) Final determination by the Board is reviewable in accordance with the provisions of chapter 7, title 5, United States Code, by the United States district court for the Federal judicial district where the credit union's principal place of business is located. Such action must be filed not later than 60 days after such final determination is ordered.

[51 FR 37560, Oct. 23, 1986, as amended at 71 FR 67440, Nov. 22, 2006]

APPENDIX TO PART 745—EXAMPLES OF INSURANCE COVERAGE AFFORDED ACCOUNTS IN CREDIT UNIONS INSURED BY THE NATIONAL CREDIT UNION SHARE INSURANCE FUND

WHAT IS THE PURPOSE OF THIS APPENDIX?

The following examples illustrate insurance coverage on accounts maintained in the same federally-insured credit union. They are intended to cover various types of ownership interests and combinations of accounts which may occur in connection with funds invested in insured credit unions. These examples interpret the rules for insurance of accounts contained in 12 CFR part 745 and focus on those accounts for which examples are not provided in the regulatory text.

The examples, as well as the rules which they interpret, are predicated upon the assumption that: (1) Invested funds are actually owned in the manner indicated on the credit union's records and (2) the owner of funds in an account is a credit union member or otherwise eligible to maintain an insured account in a credit union. If available evidence shows that ownership is different from that on the institution's records, the National Credit Union Share Insurance Fund may pay claims for insured accounts on the basis of actual rather than ostensible ownership. Further, the examples and the rules which they interpret do not extend insurance coverage to persons otherwise not entitled to maintain an insured account or to account relationships that have not been approved by the NCUA Board as an insured account.

A. How Are Single Ownership Accounts Insured?

All funds owned by an individual member (or, in a community property state, by the husband-wife community of which the individual is a member) and invested in one or more individual accounts are added together and insured to the \$250,000 maximum. This is true whether the accounts are maintained in the name of the individual member owning the funds or in the name of the member's agent or nominee. (§745.3(a)(1) and (2).) All such accounts are added together and insured as one individual account. Funds held in one or more accounts in the name of a guardian, custodian, or conservator for the benefit of a ward or minor are added together and insured up to \$250,000. However, such an account or accounts will not be added to any other individual accounts of the guardian, custodian, conservator, ward, or minor for purposes of determining insurance coverage. (§745.3(b).) A mortgage servicing account maintained by a mortgage servicer, in a custodial or other fiduciary capacity, comprised of payments by a mortgagor of principal and interest is insured for the cumulative balance paid into the account by the mortgagor, up to \$250,000 for the mortgagor separately from other individual accounts of the mortgagor. A mortgage servicing account maintained by a mortgage servicer, in a custodial or other fiduciary capacity, comprised of payments by a mortgagor of taxes and insurance premiums shall be added together with the mortgagor's other individual accounts and insured up to \$250,000. (§745.3(a)(3).)

*Example 1* Question: Members A and B, husband and wife, each maintain an individual account containing \$250,000. What is the insurance coverage?

Answer: Each account is separately insured up to \$250,000, for a total coverage of \$500,000. The coverage would be the same whether the individual accounts contain funds owned as community property or as individual property of the spouses (§745.3(a)(1)).

*Example 2* Question: Members H and W, husband and wife, reside in a community property state. H maintains a \$250,000 account consisting of his separately-owned funds and invests \$250,000 of community property funds in another account, both of which are in his name alone. What is the insurance coverage?

Answer: The two accounts are added together and insured to a total of \$250,000. \$250,000 is uninsured (§745.3(a)(1)).

*Example 3* Question: Member A has \$192,500 invested in an individual account, and his agent, Member B, invests \$125,000 of A's funds in a properly designated agency account. B also holds a \$250,000 individual account. What is the insurance coverage?