

National Credit Union Administration**§ 745.10**

section 530 of the Internal Revenue Code (26 U.S.C. 530).

[51 FR 37560, Oct. 23, 1986, as amended at 65 FR 34924, June 1, 2000; 68 FR 75114, Dec. 30, 2003; 71 FR 14636, Mar. 23, 2006]

§ 745.9-2 Retirement and other employee benefit plan accounts.

(a) *Pass-through share insurance.* Any shares of an employee benefit plan in an insured credit union shall be insured on a "pass-through" basis, in the amount of up to the SMSIA for the non-contingent interest of each plan participant, in accordance with § 745.2 of this part. An insured credit union that is not "well capitalized" or "adequately capitalized," as those terms are defined in 12 U.S.C. 1790d(c), may not accept employee benefit plan deposits. The terms "employee benefit plan" and "pass-through share insurance" are given the same meaning in this section as in 12 U.S.C. 1787(k)(4).

(b) *Treatment of contingent interests.* In the event that participants' interests in an employee benefit plan are not capable of evaluation in accordance with the provisions of this section, or an account established for any such plan includes amounts for future participants in the plan, payment by the NCUA with respect to all such interests shall not exceed the SMSIA in the aggregate.

(c)(1) *Certain retirement accounts.* Shares in an insured credit union made in connection with the following types of retirement plans shall be aggregated and insured in the amount of up to \$250,000 (which amount shall be subject to inflation adjustments as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act, except that \$250,000 shall be substituted for \$100,000 wherever such term appears in such section) per account:

(i) Any individual retirement account described in section 408(a) (IRA) of the Internal Revenue Code (26 U.S.C. 408(a)) or similar provisions of law applicable to a U.S. territory or possession;

(ii) Any individual retirement account described in section 408A (Roth IRA) of the Internal Revenue Code (26 U.S.C. 408A) or similar provisions of law applicable to a U.S. territory or possession; and

(iii) Any plan described in section 401(d) (Keogh account) of the Internal

Revenue Code (26 U.S.C. 401(d)) or similar provisions of law applicable to a U.S. territory or possession.

(2) Insurance coverage for the accounts enumerated in paragraph (c)(1) of this section is based on the present vested ascertainable interest of a participant or designated beneficiary. For insurance purposes, IRA and Roth IRA accounts will be combined together and insured in the aggregate up to \$250,000 (which amount shall be subject to inflation adjustments as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act, except that \$250,000 shall be substituted for \$100,000 wherever such term appears in such section). A Keogh account will be separately insured from an IRA account, Roth IRA account or, where applicable, aggregated IRA and Roth IRA accounts.

[71 FR 14636, Mar. 23, 2006, as amended at 75 FR 34622, June 18, 2010]

§ 745.10 Accounts held by government depositors.

(a) Public funds invested in Federal credit unions and federally-insured state credit unions authorized to accept such investments shall be insured as follows:

(1) Each official custodian of funds of the United States lawfully investing the same in a federally-insured credit union will be separately insured in the amount of:

(i) Up to the SMSIA in the aggregate for all share draft accounts; and

(ii) Up to the SMSIA in the aggregate for all share certificate and regular share accounts;

(2) Each official custodian of funds of any state of the United States or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in the same state will be separately insured in the amount of:

(i) Up to the SMSIA in the aggregate for all share draft accounts; and

(ii) Up to the SMSIA in the aggregate for all share certificate and regular share accounts;

(3) Each official custodian of funds of the District of Columbia lawfully investing the same in a federally-insured

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credit union in the District of Columbia will be separately insured in the amount of:

(i) Up to the SMSIA in the aggregate for all share draft accounts; and

(ii) Up to the SMSIA in the aggregate for all share certificate and regular share accounts;

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Panama Canal Zone, or any territory or possession of the United States, or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively, will be separately insured in the amount of:

(i) Up to the SMSIA in the aggregate for all share draft accounts; and

(ii) Up to the SMSIA in the aggregate for all share certificate and regular share accounts;

(5) Each official custodian of tribal funds of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof lawfully investing the same in a federally-insured credit union will be separately insured in the amount of:

(i) Up to the SMSIA in the aggregate for all share draft accounts; and

(ii) Up to the SMSIA in the aggregate for all share certificate and regular share accounts;

(b) Each official custodian referred to in paragraphs (a)(2), (3), and (4) of this section lawfully investing such funds in share accounts in a federally-insured credit union outside of their respective jurisdictions shall be separately insured up to the SMSIA in the aggregate for all such accounts regardless of whether they are share draft, share certificate or regular share accounts.

(c) For purposes of this section, if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for each such unit, but he shall not be separately insured with respect to all public funds of the same public unit by virtue of holding different offices in such unit or by holding such funds for different purposes. Where an officer, agent or employee of a public unit has custody of certain funds which by law or under a

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bond indenture are required to be set aside to discharge a debt owed to the holders of notes or bonds issued by the public unit, any investment of such funds in an account in a federally-insured credit union will be deemed to be a share account established by a trustee of trust funds of which the noteholders or bondholders are pro rata beneficiaries, and the beneficial interest of each noteholder or bondholder in the share account will be separately insured up to the SMSIA.

(d) For purposes of this section, "lawfully investing" means pursuant to the statutory or regulatory authority of the custodian or public unit.

[51 FR 37560, Oct. 23, 1986, as amended at 65 FR 34925, June 1, 2000; 71 FR 14636, Mar. 23, 2006]

§ 745.11 Accounts evidenced by negotiable instruments.

If any insured account obligation of a credit union is evidenced by a negotiable certificate account, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, or negotiable traveler's check or letter of credit, the owner of such account obligation will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union provided the instrument was in fact negotiated to such owner prior to the date of the closing of the credit union. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

§ 745.12 Account obligations for payment of items forwarded for collection by depository institution acting as agent.

Where a closed credit union has become obligated for the payment of items forwarded for collection by a depository institution acting solely as agent, the owner of such items will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such depository institution forwarding such items