§ 4290.390 do not apply to Non-leveraged RBICs.

§§ 4290.3016–4290.3019 [Reserved]

§ 4290.3020 Changes in Ownership, Structure, or Control.

Paragraph (b) in § 4290.440 does not apply to Non-leveraged RBICs.

§§ 4290.3021–4290.3024 [Reserved]

§ 4290.3025 Managing the Operations of a RBIC.

(a) *Nonperformance.* In addition to the provisions specified in § 4290.507, failure of an approved Non-leveraged RBIC to maintain sound investment practice, as determined by the Secretary, may result in loss of approval for participating in this program.

(b) *Employment of USDA or SBA officials.* Paragraph (a)(2) of § 4290.509 does not apply to Non-leveraged RBICs.

(c) *Approval of RBIC's Investment Adviser/Manager.* In addition to complying with § 4290.510, a Non-leveraged RBIC must notify the Secretary of the Management Expenses to be incurred under such contract, or of any subsequent material changes in such Management Expenses, within 30 days of execution.

(d) *Management Expenses of a RBIC.* When complying with § 4290.520, Non-leveraged RBICs do not need prior approval of initial Management Expenses and any increases in those expenses.

(e) *Restrictions on investments of idle funds by RBICs.* The provisions of § 4290.530 apply to Non-leveraged RBICs only when the Non-leveraged RBIC engages in activities not contemplated by the Act.

(f) *Prior approval of secured third-party debt of RBICs.* The provisions of § 4290.550 do not apply to Non-leveraged RBICs.

(g) *Voluntary decrease in Regulatory Capital.* When complying with § 4290.585, Non-leveraged RBICs do not need to obtain prior approval for decreases in Regulatory Capital of more than 2 percent (but not below the minimum required under this Act or these regulations). However, Non-leveraged RBICs must report the reduction to the Secretary within 30 days.

§§ 4290.3026–4290.3029 [Reserved]

§ 4290.3030 Financing of Enterprises by RBICs.

(a) *Non-compliance with this section.* The last sentence of § 4290.700(e) does not apply to Non-leveraged RBICs.

(b) *Enterprises that may be ineligible for Financing.* The provisions associated with real estate enterprises found in § 4290.720(c) apply to Non-leveraged RBICs unless the Non-leveraged RBIC requests, and has received, an irrevocable exemption from the Secretary in accordance with § 4290.1920.

(c) *Farmland purchases.* The provisions associated with farmland purchases found in § 4290.720(e) apply to Non-leveraged RBICs unless the Non-leveraged RBIC requests, and has received, an irrevocable exemption from the Secretary in accordance with § 4290.1920.

(d) *Purchasing securities from an underwriter or other third party.* Non-leveraged RBICs are exempt from the recordkeeping requirements and fee limitations in § 4290.825(b) and (c), respectively, for securities purchased through or from an underwriter.

(e) *Assets acquired in liquidation of Portfolio securities.* The provisions of § 4290.880 do not apply to Non-leveraged RBICs.

§§ 4290.3031–4290.3034 [Reserved]

§ 4290.3035 Recordkeeping, Reporting, and Examination Requirements for RBICs.

Except for § 4290.600(d), Subpart H, Recordkeeping, Reporting, and Examination Requirements for RBICs, of this part applies to Non-leveraged RBICs.

§§ 4290.3036–4290.3039 [Reserved]

§ 4290.3040 Financial Assistance for RBICs.

Subpart J, Financial Assistance for RBICs (Leveraged), of this part does not apply to Non-leveraged RBICs.

§ 4290.3041 Events of default and the Secretary's remedies for RBIC's noncompliance with terms of Debenture.

In addition to complying with the provisions of § 4290.1810, a RBIC's failure to comply with the terms of this part may result in the Secretary revoking the Non-leveraged RBIC's license issued under this part.

§§ 4290.3042–4290.3044 [Reserved]

§ 4290.3045 Computation of RBIC's Capital Impairment.

The provisions specified in §§ 4290.1830 and 4290.1840 do not apply to Non-leveraged RBICs.

§§ 4290.3046–4290.3049 [Reserved]

§ 4290.3050 Operational Assistance Grants for RBICs.

Subpart N, Requirements for Operational Assistance Grant to RBICs, of this part does not apply to Non-leveraged RBICs. All other references to Operational Assistance in this part do not apply to Non-leveraged RBICs.

§§ 4290.3051–4290.3099 [Reserved]

Dated: December 15, 2011.

Dallas Tonsager,

Under Secretary, Rural Development.

Dated: December 15, 2011.

Bruce Nelson,

Administrator, Farm Service Agency.

[FR Doc. 2011–32570 Filed 12–22–11; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending the section of its regulations addressing the low-income designation to make minor, nonsubstantive technical corrections. The technical amendments update the regulation to reflect current agency practice and will not cause any substantive changes.

DATES: This rule is effective December 23, 2011.

FOR FURTHER INFORMATION CONTACT: Pamela Yu, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background
II. Regulatory Changes
III. Regulatory Procedures

I. Background [1]

A. Why is NCUA adopting this rule?

NCUA continually reviews its regulations to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.'' NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2, Developing and Reviewing Government Regulations. Recently, NCUA internally reviewed its regulations and determined minor revisions to section 701.34 are necessary to reflect current agency practice.

[1] President Obama signed the Plain Writing Act of 2010 (Pub. L. 111–274) into law on October 13, 2010 ''to improve the effectiveness and accountability of federal agencies to the public by promoting clear Government communication that the public can understand and use.'' This preamble is written to meet plain writing objectives.

B. What changes does the final rule make?

The final rule amends section 701.34 of NCUA's regulations to make minor technical corrections. The corrections are necessary to update and conform the regulation to current agency practice. Specifically, the NCUA Board has delegated its authority for designations of low-income status to the Office of Consumer Protection. This authority previously sat with the regional directors. The final rule amends section 701.34 to remove references to ''regional directors,'' and to replace those references with ''NCUA''.

II. Regulatory Changes

This rule provides minor technical corrections and will not cause any substantive changes.

III. Regulatory Procedures

Final Rule Under the Administrative Procedure Act

NCUA is issuing this rulemaking as a final rule, effective upon publication. Generally, the Administrative Procedure Act (APA) requires a rulemaking to be published as a notice of proposed rulemaking with the opportunity for public comment, unless the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553. NCUA believes good cause exists for issuing these amendments without notice and public comment. The amendments in this rule are not substantive but merely technical in that they make minor corrections to update the regulations and conform them to current agency practice.

Additionally, the APA requires that a final rule must have a delayed effective date of 30 days from the date of publication, except for good cause. 5 U.S.C. 553(d). NCUA also finds good cause to waive the customary 30-day delayed effective date requirement under the APA. 5 U.S.C. 553(d)(3). Again the technical change conforms the rule to current agency practice. The rule will, therefore, be effective immediately upon publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those credit unions under ten million dollars in assets). This rule does not impose any regulatory burden. It merely makes non-substantive technical changes to section 701.34 of NCUA's regulations. This rule will not have a significant economic impact on a substantial number of small credit unions. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that this rule will not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule will not have substantial direct effects 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. NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the APA. 5 U.S.C. 551. Based on similar technical changes to the NCUA regulations, we believe the Office of Management and Budget will determine that this rule is not a major rule for purposes of SBREFA. As required by SBREFA, NCUA will file the appropriate reports with Congress and the General Accounting Office so this rule may be reviewed.

List of Subjects in 12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

By the National Credit Union Administration Board on December 8, 2011.

Mary Rupp,

Secretary of the Board.

For the reasons discussed above, NCUA amends 12 CFR part 701 of title 12, chapter VII, of the Code of Federal Regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761A, 1761B, 1766, 1767, 1782, 1784, 1786, 1787, 1789, Section 701.6 is also authorized by 15 U.S.C. 1601, *et seq.;* 42 U.S.C. 1981 and 3601–3610, Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

§ 701.34 [Amended]

■ 2. Section 701.34 is amended by:

■ a. Removing the words ''the regional director'' wherever they appear and adding in their place the word ''NCUA''.

■ b. Removing the words ''a regional director'' or ''A regional director'' wherever they appear and adding in their place the word ''NCUA''.

■ c. Removing the words ''the appropriate Regional Director'' wherever they appear and adding in their place the word ''NCUA''.

■ d. Removing the words ''the appropriate regional director'' wherever they appear and adding in their place the word ''NCUA''.

■ e. Removing the words ''the appropriate regional director's'' wherever they appear and adding in their place the word ''NCUA's''.

■ f. Removing the words ''the appropriate NCUA Regional Director'' wherever they appear and adding in their place the word ''NCUA''.

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