

Fairness Act of 1996 this is not a major rule.

List of Subjects in 12 CFR Part 701

Credit unions, Senior executive officials.

By the National Credit Union Administration Board on May 19, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, 12 CFR part 701 is amended as follows:

PART 701—ORGANIZATION AND OPERATION 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, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.14 is amended as follows.

a. Revise the introductory text of paragraph (b)(3) and add paragraph (b)(4).

b. Revise paragraph (c)(2).

c. Amend paragraph (d)(1) by adding two new sentences after the first sentence and by removing the last three sentences and adding five sentences. The revisions and additions to section 701.14 read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(b) * * *

(3) Except as provided in paragraph (b)(4) of this section for corporate credit unions, “troubled condition” means any insured credit union that has one or a combination of the following conditions:

* * * * *

(4) In the case of a corporate credit union, “troubled condition” means any insured corporate credit union that has one or a combination of the following conditions:

(i) Has been assigned

(A) A 4 or 5 Corporate Risk Information System (CRIS) rating by NCUA in either the Financial Risk or Risk Management composites, in the case of a federal corporate credit union, or

(B) An equivalent 4 or 5 CRIS rating in either the Financial Risk or Risk Management composites by the state supervisor in the case of a federally

insured, state-chartered corporate credit union in a state that has adopted the CRIS system, or an equivalent 4 or 5 CAMEL composite rating by the state supervisor in the case of a federally insured, state-chartered corporate credit union in a state that uses the CAMEL system, or

(C) A 4 or 5 CRIS rating in either the Financial Risk or Risk Management composites by NCUA based on core workpapers received from the state supervisor in the case of a federally insured, state-chartered credit union in a state that does not use either the CRIS or CAMEL system. In this case, the state supervisor will be notified in writing by the Director of the Office of Corporate Credit Unions that the corporate credit union has been designated by NCUA as a troubled institution;

(ii) has been granted assistance as outlined under Sections 116 or 208 of the Federal Credit Union Act.

(c) * * *

(2) The credit union meets the definition of troubled condition as set forth in paragraph 701.14(b)(3) or (4).

* * * * *

(d) *Procedures for notice of proposed change in official or senior executive officer.*

(1) *Filing and acceptance.* * * * In the case of a corporate credit union, notice shall be filed with the Director of the Office of Corporate Credit Unions. Additional references herein to Regional Director will, for corporate credit unions, mean the Director of the Office of Corporate Credit Unions. * * * Within ten calendar days after receiving the notice, the Regional Director will inform the credit union either that the notice is complete or that additional specified information is needed and must be submitted within 30 calendar days. If the initial notice is complete, the Regional Director will issue a written decision of approval or disapproval to the individual and the credit union within 30 calendar days of receipt of the notice. If the initial notice is not complete, the Regional Director will issue a written decision within 30 calendar days of receipt of the original notice plus the amount of time taken by the credit union to provide the requested additional information. If the additional information is not submitted within 30 calendar days of the Regional Director’s request, the Regional Director may either disapprove the proposed individual or review the notice based on the information provided. If the credit union and the individual have submitted all requested information and the Regional Director has not issued a

written decision within the applicable time period, the individual is approved.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board is removing its rule governing safe deposit box service. This revision will eliminate an unnecessary section from the regulations.

DATES: Effective June 28, 1999.

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

SUPPLEMENTARY INFORMATION:

A. Background

On December 17, 1998, the NCUA Board requested comments on the proposed rule to remove § 701.30 of its regulations. 64 FR 57 (January 4, 1999). Section 701.30 of NCUA’s regulations provides that a federal credit union may lease safe deposit boxes to its members. The NCUA Board is removing this section to streamline the publication of the regulations. The deletion of § 701.30 does not affect the authority of federal credit unions to offer safe deposit box service.

NCUA has a policy of continually reviewing its regulations to “update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.” Interpretive Rulings and Policy Statement (IRPS) 87–2, Developing and Reviewing Government Regulations. Review of § 701.30 of NCUA’s regulations revealed that this section is an unnecessary provision. Under the Federal Credit Union Act, federal credit unions (FCUs) have the power to exercise incidental powers that are necessary or requisite to enable them to carry on effectively the business for which they are incorporated. 12 U.S.C. 1757(17). FCUs may lease safe deposit boxes to their members as part of the routine services they provide. The removal of § 701.30 does not affect this incidental authority.

B. Summary of Comments

The NCUA Board received three comments on the proposal: one from a credit union trade group and two from state leagues. All three commenters supported the removal of the regulation.

C. Regulatory Procedures

1. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions, meaning those under \$1 million in assets. The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility analysis is not required.

2. Paperwork Reduction Act

This final rule to remove § 701.30 does not involve a collection of information under the Paperwork Reduction Act. Accordingly, NCUA has determined that a Paperwork Reduction analysis is not required.

3. Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final rule is to remove a current regulation that applies to federal credit unions, not federally insured state chartered credit unions. Therefore, NCUA has determined that the final rule does not constitute a "significant regulatory action" for purposes of the Executive Order.

4. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) 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 Administrative Procedures Act, 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and determined that, for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, this is not a major rule.

List of Subjects in 12 CFR Part 701

Credit unions, Safe deposit box service.

By the National Credit Union Administration Board on May 19, 1999.

Becky Baker,
Secretary of the Board.

Accordingly, the National Credit Union Administration amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION 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, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 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.

§ 701.30 [Removed]

2. Part 701 is amended to remove and reserve § 701.30.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 713, and 741

Organization and Operations of Federal Credit Unions; Fidelity Bond and Insurance Coverage for Federal Credit Unions; Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA is issuing this rule to update, clarify, revise and redesignate its regulation that addresses the requirements for fidelity bond coverage for losses caused by credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union, e.g., losses due to theft, holdup or vandalism. The final rule recasts the rule in plain English format and adds several previously approved bond forms to the regulation.

DATES: This rule is effective July 26, 1999.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: Allan Meltzer, Associate General Counsel, 1775 Duke Street, Alexandria, VA 22314-3428. Telephone Number (703) 518-6540.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Credit Union Act sets forth statutory requirements for the bonding of credit union employees and appointed and elected officials. 12 U.S.C. 1761a, 1761b(2) and 1766(h). The NCUA Board is directed to promulgate regulations setting forth both the amount and character of bond requirements for employees and officials. The NCUA Board is also granted the following powers concerning bonding:

To approve bond forms;
To set minimum requirements for bond coverage;

To require such other fidelity coverage as the Board may determine to be reasonably appropriate;

To approve a blanket bond in lieu of individual bonds; and

To approve bond coverage in excess of minimum fidelity coverage.

In addition, NCUA's general rulemaking authority provides a statutory basis for both the bonding requirements of § 701.20 and the insurance coverage requirements related to losses caused by persons outside the credit union. 12 U.S.C. 1766(a), 1789(a)(11).

NCUA has a policy of periodically reviewing its regulations to "update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions." IRPS 87-2, Developing and Reviewing Government Regulations. As part of its regulatory review program, NCUA reviewed § 701.20 to determine whether the language of the regulation was clear and effective. As a result of that review on December 17, 1998, the NCUA Board proposed changes to this regulation (64 FR 58, January 4, 1999) to increase regulatory effectiveness by making it easier for credit unions to understand the requirements regarding fidelity bonds and other insurance. The proposed rule also added a number of additional bond forms which have been approved by the NCUA for use by federal credit unions.

In addition, the proposed rule provided for an aggregate limit of liability no less than twice the single loss limit of liability stated in the fidelity bond. Most bond forms currently in use provide for such an aggregate liability limit.

B. Comments

Five comment letters were received. Of these, three were received from state credit union leagues, one from a national credit union trade association, and one from an insurance company. All five concurred with the final rule.