

to their relevant CFR Part? If not, do you think that the IRPS NCUA proposes to maintain should be renumbered?

By the National Credit Union Board on March 7, 1997.

Becky Baker,

Secretary to the Board.

[FR Doc. 97-6381 Filed 3-12-97; 8:45 am]

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12 CFR Chapter VII

Federal Credit Union Bylaws

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The NCUA Board proposes to revise and reorganize its Federal Credit Union Bylaws and Federal Credit Union Standard Bylaw Amendments in connection with its Regulation Review Program (Program). This proposal is one component of the Program to update and streamline NCUA regulations, focus regulations on key safety and soundness concerns and agency objectives, and eliminate requirements that impose inefficient and costly regulatory burdens on federally insured credit unions. The purpose of this notice is to solicit comments to help guide the preparation of a proposed rule which would clarify, revise and reorganize existing FCU Bylaws and eliminate bylaws that are obsolete. This notice presents only a general description of the bylaw changes being considered and includes no regulatory text. Comments will again be solicited when a proposed rule is issued with regulatory text.

DATES: Comments must be received by May 12, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

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

SUPPLEMENTARY INFORMATION:

Background

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI)(12 U.S.C. § 4803(a)) requires the

Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to review their regulations in order to streamline and modify their regulations to improve efficiency, reduce unnecessary costs, eliminate unwarranted constraints on credit availability and to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policy. Although not statutorily mandated to engage in the review, the NCUA Board agrees with the policies and goals set forth in the CDRI and has voluntarily set up its own Program.

The goal of the Program is to review all of the NCUA's rules and regulations to eliminate regulatory requirements that impose inefficient and costly regulatory burdens on federally insured credit unions, to eliminate requirements that do not contribute significantly to maintaining safety and soundness, and to revise rules that do not effectively advance the NCUA's other goals and statutory responsibilities. This review process will be ongoing. It began in 1995 with a complete revision of part 741, Requirements for Insurance.¹

FCU Bylaws

Section 108 of the FCU Act, 12 U.S.C. 1758, requires the NCUA Board to prepare bylaws which shall be used by all FCUs. Currently, the bylaws are approved by the NCUA Board and published in two manuals, Federal Credit Union Bylaws² (FCU Bylaws) and Federal Credit Union Standard Bylaw Amendments and Guidelines³ (Standard Bylaw Amendments). The manuals are made available to FCUs upon request. The bylaws contained in the two manuals may be adopted by an FCU without approval from NCUA. An FCU must request approval to adopt a bylaw not contained in the manuals (nonstandard bylaw amendment) from its Regional Director. The Regional Director reviews all of the requests. After consulting with the other Regional Directors and the Office of General Counsel, the Regional Director advises the FCU whether its nonstandard bylaw amendment has been approved. As the requests for nonstandard amendments continue to increase, the process has become burdensome for FCUs and NCUA staff.

Request for Comments

There are several problems associated with the current FCU Bylaws and

Standard Bylaw Amendments. Below is a general discussion of some of the problem areas and a request for comment.

1. FCU Bylaws and Standard Bylaw Amendments are not published in the Federal Register or codified in NCUA's Regulations. This is problematic for two reasons. First, the bylaws are not easily accessible to the general public, to the same extent as they would be if they were incorporated into NCUA's Regulations and published in the CFR. Second, a federal court⁴ held that NCUA's interpretation of its bylaws is accorded deference only if issued as a regulation. In order to ensure that its bylaws are enforceable, the Board is considering publishing them as a regulation. However, this would limit the Board's flexibility. Notice and comment rulemaking would be required to effect changes. The Board suggests a process where annually a proposal is submitted to the Board to adopt changes to the bylaws. The proposal will be based upon the requests received by the six Regions for bylaw amendments throughout the prior year. Under this model, there would no longer be nonstandard amendments. This may create a hardship for an FCU with unique circumstances. The Board is interested in receiving comments on alternative ways to deal with this issue.

2. Permissible bylaws for FCUs are currently contained in two publications. In order to simplify the selection procedure for FCUs the Board believes that all FCU bylaws should be published in one place, either the regulations or one manual. It is envisioned that the revised bylaws will be more flexible by having more fill in the blanks, so that one bylaw can be modified to suit the needs of FCUs with vastly different operations. In the event alternative bylaws are necessary, they will be published side by side and an FCU will choose the one most suited to its operation.

3. Many of the current FCU Bylaws and Standard Bylaw Amendments are duplicative and outdated. The bylaws have not been thoroughly updated for many years. By eliminating unnecessary bylaws, NCUA hopes to reduce regulatory compliance costs.

Some obvious examples of outdated or duplicative provisions that can be deleted are:

- Article III, Section 3—Delete the 6 month time requirement allowed to pay one share (outdated);

¹ 60 FR 58502 (November 28, 1995).

² Revised 12/87.

³ Revised 10/91.

⁴ An unpublished opinion, *Madias v. Dearborn FCU*, Civ. Act. No. 96-40043, (E.D. MI, So. Div. 1996).

- Article III, Section 4—Delete the \$1 transfer fee (outdated);
- Article IV—Delete the reference to passbook accounts (outdated);
- Article XIII—Delete this section on reserves (duplicative of the regulations); and
- Article XX—Delete this section on operation following an attack on the United States (outdated).

In conjunction with deleting the outdated provisions, NCUA is committed to ensuring that FCUs operate under state-of-the-art corporate governance procedures. Wherever possible, consistent with safety and soundness and fairness to members, we are seeking to move toward greater flexibility. Some of the areas that we have identified for modernization and flexibility are Article V, Meeting of Members; Article VI, Elections; Article VII, Board of Directors; and Article VIII, Board Officers, Management Officials and Executive Committee. Comments on how to modernize these provisions, as well as other areas in need of modernization, are requested.

4. Upon revision of the bylaws, should FCUs be required to adopt the revised FCU Bylaws? The Board is grappling with the issue of whether FCUs should be required to adopt the revised bylaws. On the one hand, the Board believes that consistent bylaws among FCUs is preferable. On the other hand, the Board recognizes that a complete revision of an FCU's bylaws may create a hardship for some FCUs. The Board requests comment on whether all FCUs should be required to adopt the new bylaws and if so, what would be a reasonable time-frame for compliance.

The NCUA Board is seeking comments on all of the above mentioned possible means of simplifying and modernizing the bylaws, including the likely effect of such changes on the FCUs and their members. The Board is also seeking suggestions on any other ways that the bylaws might be streamlined, simplified and clarified. Based upon the comments, the Board will issue a proposed rule with proposed bylaws and another request for comments. Based upon those comments, the Board will issue a final rule.

By the National Credit Union Administration Board on March 7, 1997.
Becky Baker,
Secretary of the Board.
[FR Doc. 97-6380 Filed 3-12-97; 8:45 am]
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12 CFR Parts 701, 712 and 740

Organization and Operations of Federal Credit Unions; Credit Union Service Organizations; Advertising

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The NCUA is proposing to update, clarify and streamline existing rules concerning credit union service organizations (CUSOs), a common means of outside provision of services to federal credit unions (FCUs) and to credit union members. The intended effect of the proposal is to reduce regulatory burden, maintain safety and soundness, and ensure the continuity and growth of services to FCUs and their members conducted through CUSOs. Related conforming changes are also proposed to amend NCUA's rules on credit union service contract and credit union advertising requirements.

DATES: Comments must be received on or before May 12, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518-6480 or to NCUA's webpage on the Internet at <http://www.NCUA.gov>. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Martin "Sparky" Conrey, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540; or Linda Groth, State Program Officer, Division of Supervision, Office of Examination and Insurance, at the above address or telephone: (703) 518-6360.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

A. General

In 1977, Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) was amended to authorize federal credit unions (FCUs) to invest in, and make loans to, CUSOs subject to certain funding limits and other regulatory restrictions. The first CUSO rule was promulgated in 1979; the last major revision of this rule was in 1986. In general, the results of the 1986 revision have been very positive. Nonetheless, over ten years of experience with the regulation indicates that there may be a

need for additional simplification, clarification, and improvement.

In particular, NCUA is aware that certain business and legal developments make this a good time to review and update the CUSO rule. NCUA staff researched the relevant regulations, guidance, legal interpretations and reporting requirements of NCUA and the other federal financial institution regulators. In addition, NCUA is conducting a review of its regulations pursuant to the Regulatory Reinvention Initiative of the Vice President's National Performance Review and the NCUA Board's Regulatory Relief Project. The purpose of this notice of proposed rulemaking is to identify and request public comment on reducing regulatory burden and increasing the flexibility and usefulness of CUSOs, while ensuring the safety and soundness of FCUs and the National Credit Union Share Insurance Fund (NCUSIF).

In providing comments upon the proposed rule, commenters are requested to keep in mind the needs of small credit unions, especially community development and low-income designated credit unions and their members. CUSOs provide an ideal means for smaller credit unions to expand the types of products and services offered to their memberships, offer economies of scale, enhance members' lives, and increase hours of service and locations, through automated teller machines (ATMs), service centers, and other CUSO services. CUSOs can result in more favorable penetration rates of potential members through availability of financial services that might not otherwise be available and can result in a transfer of knowledge and expertise from larger, full-service credit unions to smaller, more limited service credit unions, which can have long-term positive implications upon safety and soundness. Lately, NCUA has been concerned over some reports that smaller credit unions have been unable to meet minimum investment or other eligibility requirements in order to partake of CUSO services. For this reason, NCUA is weighing various options to increase smaller credit union utilization of CUSO services. One means might be through informal guidance, such as an NCUA Letter to Credit Unions, regarding smaller credit union participation in CUSOs. Another means might be through informal understandings with the CUSO industry regarding possible incentives to be offered to smaller credit unions, such as a reduction in, or waiver of, ordinary transaction charges, or a lowered minimum investment or deposit amount