forward the request to the NCUA Board for a final determination.

§ 723.21 Definitions.

For purposes of this part, the following definitions apply:

Associated member is any member with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

Construction or development loan is a financing arrangement for acquiring property or rights to property, including land or structures, with the intent to convert it to income-producing property such as residential housing for rental or sale; commercial use; industrial use; or similar uses.

Immediate family member is a spouse or other family member living in the same household.

Loan-to-value ratio is the aggregate amount of all sums borrowed including outstanding balances plus any unfunded commitment or line of credit from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.

Net worth is retained earnings as defined under Generally Accepted Accounting Principles. Retained earnings normally includes undivided earnings, regular reserves and any other appropriations designated by management or regulatory authorities.

PART 741—REQUIREMENTS FOR INSURANCE

2. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766 and 1781–1790. Section 741.4 is also authorized by 31 U.S.C. 3717.

§ 741.203 [Amended]

3. Section 741.203 is amended in paragraph (a) by removing the second sentence and adding in its place a new sentence to read as follows: ''State-chartered, NCUSIF-insured credit unions in a given state are exempt from these requirements if the state supervisory authority for that state adopts substantially equivalent regulations as determined by the NCUA Board or, in the case of the member business loan requirements, if the state supervisory authority adopts member business loan regulations that are approved by the NCUA Board pursuant to § 723.20.''

[FR Doc. 99–13310 Filed 5–26–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708a

Conversion of Insured Credit Unions to Mutual Savings Banks

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA is issuing a final rule that revises its rules governing the conversion of insured credit unions to mutual savings banks or mutual savings associations. These revisions simplify the charter conversion process and reduce regulatory burden for insured credit unions that choose to convert. NCUA is making these revisions in compliance with federal legislation that mandates such revisions.

DATES: This rule is effective June 28, 1999.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

The Credit Union Membership Access Act (CUMAA) was enacted into law on August 7, 1998. Public Law 105–21. Section 202 of CUMAA amends the provisions of the Federal Credit Union (FCU) Act concerning conversion of insured credit unions to mutual savings banks or mutual savings associations. 12 U.S.C. 1785(b). CUMAA requires the NCUA to promulgate final rules regarding charter conversions within six months of that date that are: (1) consistent with CUMAA; (2) consistent with the charter conversion rules promulgated by other financial regulators; and (3) no more or less restrictive than rules applicable to charter conversions of other financial institutions. Accordingly, NCUA issued an interim final rule with request for comments that was effective November 27, 1998. 63 FR 65532 (November 27, 1998).

Final Rule

With the benefit of having considered public comments on part 708a, NCUA issues this final rule and amends the interim final rule. As discussed more fully below, the changes from the interim final rule to the final rule consist of providing more flexibility to credit unions in choosing methods for delivering member notices, correcting an inadvertent, inconsistent use of language in the notice provision in § 708a.5(c), and clarifying the purpose and scope of the certification provision in § 708a.9(b). These amendments further reduce regulatory burden on converting credit unions, simplify the conversion process and provide continued consistent treatment of proposals to convert. NCUA finds it appropriate to allow credit unions to act immediately under this revised, less restrictive rule. Accordingly, pursuant to 5 U.S.C. 553(d)(1) and (3), the rule will be effective immediately and without 30 days advance notice of publication.

Summary of Comments

The NCUA Board received eleven comment letters regarding the interim final rule: three from banking trade associations, three from credit union trade associations, one from an association of state credit union supervisors, three from FCUs and one from a law firm. They offered the following comments.

General Comments

Three commenters approve of the interim rule as written and believe the rule is consistent with the provisions of CUMAA. As of the date of preparation of this final rule, three converting FCUs have opted to request NCUA review of their notice and other materials they intend to send to members in advance of the time frame required by part 708a. NCUA has reviewed these materials, had minor revisions, and the review has not delayed or unduly burdened the conversion process. The revisions incorporated into this final rule will further enhance part 708a.

One commenter contended generally that the rule is inconsistent with the charter conversion rules of other financial regulators. NCUA has reviewed the charter conversion rules of other financial regulators and has drafted this rule to be consistent with them. In contrast to the statutory and regulatory provisions governing conversions under the jurisdiction of other financial regulators, CUMAA imposes specific time frames and particular responsibilities on NCUA in the conversion process. Accordingly, because of this significant difference, this rule is not identical to those of the other financial regulators, but is nonetheless consistent with them.

One commenter noted that in the preamble to the interim final rule, NCUA stated that it ''does not interpret the [Credit Union] Membership Access Act to preclude state regulatory authorities from imposing more restrictive charter conversion rules on federally insured state-chartered credit unions.'' That commenter suggested the

following alternative language to make this point: ''NCUA does not interpret the [Credit Union] Membership Access Act to preempt state laws prohibiting conversions to thrift charter or imposing more restrictive requirements on the conversion of federally insured state chartered credit unions.'' This alternative language also reflects NCUA's interpretation of CUMAA.

Comments to § 708a.4—Voting Procedures

Two commenters recommended that NCUA permit methods of delivering member notices in addition to the United States Postal Service, including overnight couriers and in-hand delivery. One of these commenters stated that credit unions should be permitted to include the notices with other credit union mailings to reduce the cost of postage. NCUA agrees that credit unions should have more flexibility in choosing a method for delivering member notices than is provided in the interim final rule. The final rule provides that additional flexibility. Notice to members may not, however, be included with other credit union mailings. By requiring three separate deliveries of the notice to members 90, 60 and 30 days before the membership vote, NCUA believes that Congress indicated its intent for these notices to receive special attention. That level of attention would be lost if these notices were included with other mailings.

One commenter stated that it would be appropriate for a credit union to address the conversion proposal at a regularly scheduled annual meeting and noted that this would save the cost of convening a special meeting for this purpose. The requirement of having a special meeting to consider the conversion proposal tracks the provisions of CUMAA and is consistent with the voting procedures of other financial regulators.

Comments to § 708a.5—Notice to NCUA

Two commenters acknowledged that CUMAA gives NCUA the statutory authority to require a converting credit union to provide notice of that intent to NCUA. These commenters suggest, however, that NCUA has overstepped this authority by requiring notice be in the form of a letter that states the material features of the conversion or a copy of the application filing made with another financial regulator. These alternative methods of providing notice are borrowed directly from the Office of Thrift Supervision regulations. 12 CFR 563.22(h). They are practical and reasonable and are not overly burdensome to credit unions.

One commenter acknowledged that CUMAA specifically mandates NCUA to administer the member vote on conversion and review the methods by which the vote is taken and the procedures applicable to the membership vote. This commenter suggested, however, that NCUA has gone beyond this mandate by requiring a credit union to provide NCUA with copies of the written materials it has sent or intends to send to its members in connection with the conversion. This same commenter stated that NCUA has also gone beyond its statutory authority by reviewing whether notices to members are inaccurate or misleading and whether they are sent to members timely. NCUA believes a practical and unintrusive way to review the methods and procedures is to review the notice and other materials a converting credit union gives to its members. NCUA further believes it has the responsibility to ensure compliance with statutory time frames and the factual and legal accuracy of statements in those materials.

One commenter noted that CUMAA provides that a converting credit union is to submit its notice to NCUA during the 90-day period preceding the date of the ''completion of the conversion,'' but the regulation requires notice during the 90-day period preceding the date of the ''membership vote on the conversion.'' NCUA purposefully used this language in the regulation. The date of completion of the conversion is not a date certain. Numerous events must occur throughout the conversion process that involve action by the converting credit union, NCUA, and the regulator that will supervise the credit union after conversion. The timing of these events can vary from conversion to conversion and cannot be predicted with any degree of certainty. Therefore, it is not practically feasible to calculate the notice period in relation to the date of completion of the conversion. In other sections of CUMAA, notice periods have been stated in relation to the date of the membership vote which is fixed in time. Accordingly, NCUA calculates the notice period provided in this section in relation to the fixed date of the membership vote. This enables practical application of the rule and is consistent with the other notice provisions in CUMAA.

Three commenters noted that throughout the rule, notice periods are stated in relation to the date of the ''membership vote on the conversion,'' but in § 708a.5(c), the notice period is stated in relation to the date of the ''completion of the conversion''. This inconsistency is inadvertent and is revised in the final rule so that all notice periods are stated in relation to the date of the ''membership vote on the conversion.''

Comments to § 708a.6—Certification of the Membership Vote

One commenter suggested deleting the requirement that a converting credit union certify that the written materials sent to members are identical to those sent to NCUA for its review. Another commenter stated that converting credit unions should neither be required to provide copies to NCUA of new or revised materials sent to members that were not previously sent to NCUA, nor required to provide an explanation of the reasons for using new or revised documents. As noted above, reviewing the information that is provided to members by their credit union is central to administering the member vote on conversion and reviewing the methods by which the vote was taken and the procedures applicable to the member vote. Accordingly, the requirements of this section are necessary for NCUA to fulfill these statutory responsibilities.

Comments to § 708a.9—Completion of Conversion

Two commenters stated that NCUA does not have the authority to require the board of directors of the newly chartered mutual savings bank or mutual savings association to certify to NCUA that the conversion transaction has been completed. NCUA agrees. The purpose of this provision is to obtain notice of the completion of the conversion transaction so that NCUA may cancel the former credit union's insurance certificate, provide for the return of its 1% insurance deposit in accordance with 12 CFR 741.4(j), and if applicable, cancel its federal charter. The final rule reflects this change.

Regulatory Procedures

Regulatory Flexibility Act

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

Paperwork Reduction Act

The NCUA Board has determined that the notice and disclosure requirements

in part 708a constitute a collection of information under the Paperwork Reduction Act. NCUA submitted a copy of this rule to the Office of Management and Budget (OMB) for its review. OMB has assigned control number 3133–0153 to this information collection.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. This rule applies to all federally insured credit unions, including federally insured state chartered credit unions. However, since the final rule reduces regulatory burden, NCUA has determined that the final rule does not constitute a ''significant regulatory action'' for purposes of the Executive Order.

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 has determined that it is not major for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 708a

Charter conversions, Credit unions.

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

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR part 708a is amended as follows:

PART 708a—CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS

1. The authority citation for part 708a continues to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1785(b).

2. Section 708a.4 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 708a.4 Voting procedures.

* * * * *

(b) * * * The notice to members must be submitted 90 calendar days, 60 calendar days, and 30 calendar days before the date of the membership vote on the conversion and a ballot must be submitted not less than 30 calendar days before the date of the vote.

* * * * *

3. Section 708a.5 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 708a.5 Notice to NCUA.

* * * * *

(c) If it chooses, the credit union may provide the Regional Director notice of its intent to convert prior to the 90 calendar day period preceding the date of the membership vote on the conversion. * * *

4. Section 708a.9 is amended by revising paragraph (b) to read as follows:

§ 708a.9 Completion of conversion.

* * * * *

(b) Upon notification by the board of directors of the mutual savings bank or mutual savings association that the conversion transaction has been completed, the NCUA will cancel the insurance certificate of the credit union and, if applicable, the charter of the federal credit union.

[FR Doc. 99–13307 Filed 5–26–99; 8:45 am]

BILLING CODE 7535–01–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Recordkeeping

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission is adopting amendments to the recordkeeping obligations established in Regulation 1.31. Specifically, the amendments will allow recordkeepers to store most categories of required records on either micrographic or electronic storage media for the full five-year maintenance period, thereby harmonizing procedures for those firms regulated by both the Commission and the Securities and Exchange Commission. Recordkeepers will have the flexibility necessary to maximize the cost reduction and time savings available from improved storage technology while continuing to provide Commission auditors and investigators with timely access to a reliable system of records.

EFFECTIVE DATE: June 28, 1999.

FOR FURTHER INFORMATION CONTACT: Edson G. Case, Counsel, or Lurie Plessala Duperier, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st. Street, NW, Washington, DC 20581. Telephone (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 5, 1998, the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') published a **Federal Register** Notice proposing several amendments to the recordkeeping requirements of Commission Regulation 1.31 (the ''Proposal'')[1] In light of the significant number of Commission registrants that are subject to the recordkeeping requirements of the Securities and Exchange Commission (''SEC''), the Proposal included many provisions similar to those adopted by the SEC in 1997.[2] The Proposal's overall design reflected the Commission's dual goals of ''maximiz[ing] the cost-reduction and time-savings arising from technological developments in the area of electronic storage media'' and maintaining the type of safeguards that ''ensure the reliability of the recordkeeping process.''[3] The comment period on the Proposal originally was due to expire on August 4, 1998. Upon request from the Futures Industry Association (''FIA''), the Commission extended the deadline to August 18, 1998, to encourage comment by interested persons.

The commission is publishing final rules that respond to comments expressed by industry participants and that track closely the SEC's recordkeeping requirements. While the final rules are similar to the Proposal in most respects, the Commission intends to modify certain staff practices in light of the comments received. The final rules and modifications to staff practices will provide recordkeepers with opportunities to reduce costs and improve both the efficiency and security of their recordkeeping systems by initiating a transition to electronic storage of Commission-required records.

[1] 63 FR 30668 (June 5, 1998).

[2] 62 FR 6469 (Feb. 12, 1997). The SEC's rulemaking involved reporting requirements for brokers or dealers under the Securities Exchange Act of 1934. The Commission has relied on these rules in addressing recordkeeping issues on prior occasions. *See, e.g.*, 62 FR 39104 (July 22, 1997) (interpreting Commission requirements affecting the use of electronic media by commodity pool operators (''CPOs'') and commodity trading advisors (''CTAs'') and amending Part 4 of the Commission's Rules in light of the interpretation); 62 FR 31507 (June 10, 1997) (issuing guidance regarding a futures commission merchant's (''FCM's'') electronic delivery of confirmation, purchase-and-sale, and monthly statements to customers and the related recordkeeping requirements); 62 FR 7675 (February 20, 1997) (permitting the use of electronic records of customer orders generated by an electronic order-routing system).

[3] 63 FR at 30668.