

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 22, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, it is proposed that 12 CFR part 701 be amended 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, 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 701.34 is amended by revising paragraph (b)(7) to read as follows:

§ 701.34 Designation of low-income status; receipt of secondary capital accounts by low-income designated credit unions.

* * * * *

(b) * * *

(7) Funds deposited into the secondary capital account, including interest accrued and paid into the secondary capital account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings (*i.e.*, reserves and undivided earnings exclusive of allowance accounts for loan losses), and to the extent funds are so used, the credit union shall under no circumstances restore or replenish the account. The credit union may, in lieu of paying interest into the secondary capital account, pay interest accrued on the secondary capital account directly to the investor or into a separate account from which the secondary capital investor may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time the losses are realized.

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3. The appendix to § 701.34 is amended by revising the second to last paragraph to read as follows:

Appendix to § 701.34

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The funds committed to the secondary capital account and any interest paid into the account may be used by _____ (name of credit union) to cover any and all

operating losses that exceed the credit union's net available reserves and undivided earnings exclusive of allowance accounts for loan losses, and in the event the funds are so used _____ (name of credit union) will under no circumstances restore or replenish those funds to _____ (organization).

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NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 704****Corporate Credit Unions**

AGENCY: National Credit Union Administration (NCUA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: NCUA requests public comment on revisions to the rule governing corporate credit unions (corporates). As part of its regulatory review process, NCUA has identified provisions for further clarification or revision. Comments from interested parties on these issues will assist NCUA in its regulatory review process.

DATES: Comments must be received on or before November 26, 1999.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. You may fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Robert F. Schafer, Director, Office of Corporate Credit Unions, at the above address or telephone (703) 518–6640; or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:**A. Background**

On March 7, 1997, NCUA issued a final rule that completely revised part 704 of its regulations, the provisions governing corporates. 62 FR 12929 (March 19, 1997). The final rule noted that “[a] number of commenters strongly suggested that NCUA review the corporate regulation on an annual basis.” *Id.* NCUA agreed that a periodic review was necessary, but that the frequency should be determined by circumstances and need. The NCUA Board directed the Office of Corporate Credit Unions (OCCU) to present a report on the rule within 18 months of

publication. When the final regulation's compliance date was extended from January 1, 1998, to May 1, 1998, the completion date for the report to the NCUA Board was extended to provide adequate time to assess the impact of the rule.

In February 1999, OCCU provided its report to the NCUA Board. The report identified the major areas of the rule for revision or clarification. The report was based on informal comments from 12 corporates, the Association of Corporate Credit Unions, the National Association of State Credit Union Supervisors, OCCU staff, and Office of Investment Services staff.

This advance notice of proposed rulemaking requests comment on several issues raised as a result of OCCU's 18 month review. While NCUA welcomes comment on other sections of Part 704 not addressed in this advance notice, a proposed rule will be issued providing another opportunity to provide comments on all sections of Part 704.

B. Specific Areas for Review**Section 704.2 Definitions****Asset-Backed Securities**

NCUA seeks comment on the definition of asset-backed security. There has been some confusion as to the types of securities that are permissible under the current, broad definition. For example, the definition does not specifically prohibit securities with foreign collateral. However, corporates are only permitted to make foreign investments if they have Part III Expanded Authority. NCUA is seeking recommendations on how to address this issue.

Membership Capital

A number of issues have been raised regarding the various capital accounts in part 704. Membership capital has been the most utilized source of additional capital for corporates.

The regulation allows for an adjustment period during which the membership capital account can be adjusted in relation to a specific measure. Although the regulation does not dictate the measure, many corporates utilize a member's asset size. NCUA seeks comment on whether the regulation should require a specific measure, such as, requiring the membership capital account to be adjusted in order to remain equivalent to at least one percent of the member credit union's assets as of December 31st of the prior year.

Additionally, the regulation does not state the frequency of the adjustment

period. NCUA staff believes that either an annual or semi-annual adjustment period is appropriate. There have been suggestions that a more frequent adjustment period (such as monthly or quarterly) would be more appropriate due to the often significant fluctuation in corporate assets over a short period of time. NCUA invites comment on whether the regulation should require specific allowable adjustment periods (annually, quarterly, monthly, daily) or if this should be left to the corporate to establish as long as the adjustment period is fully disclosed to the member when the account is opened.

NCUA also seeks comment on whether a minimum capital level should be prescribed that, once reached, would prohibit readjusting downward an adjusted balance membership capital account.

Paid-In Capital

NCUA believes that the credit union system is adequately capitalized. The highest concentration of capital currently rests with natural person credit unions, while corporate credit unions are somewhat less capitalized. The current regulation differentiates between member and nonmember paid-in capital by requiring nonmember paid-in capital be approved by NCUA. Should the nonmember paid-in capital requirements apply if the nonmember is a credit union? NCUA welcomes comments on the benefits or disadvantages of this proposal, how the process might best be implemented, and the treatment of such accounts under Generally Accepted Accounting Principles (GAAP).

The current regulation provides that paid-in capital cannot exceed reserves and undivided earnings. NCUA seeks comment on whether this limitation should be eliminated or revised. If the limitation on paid-in capital is eliminated, should the various regulatory limitations that are tied to reserves and undivided earnings (RUDE) and paid-in capital be revisited?

Unmatched Embedded Options

Section 704.8(d)(2) requires corporates with unmatched embedded options in excess of 200 percent of reserves, undivided earnings, and paid-in capital to perform additional tests. NCUA believes a definition of unmatched embedded options may be necessary and welcomes comment on this issue.

Section 704.7 Lending

Section 704.7(g) permits a corporate to enter into a loan participation agreement only with another corporate.

NCUA seeks comments on the expansion of loan participation authority for corporates. Issues to be considered include: (1) should participation loans with entities other than corporates be permitted; (2) the impact of participation loans with entities other than corporates on a corporate's banker's bank exemption from the Federal Reserve Board's Regulation D reserve requirements; (3) the impact of loan participations on a corporate's liquidity position; (4) whether making participation loans should require corporates to establish additional reserves; (5) should corporates be allowed to participate in business and/or consumer loans; and (6) whether corporates have the expertise to underwrite and participate in business and consumer loans.

Section 704.12 Services

NCUA requests comment on the advantages and disadvantages of eliminating this section of the regulation. If § 704.12 is eliminated, as a result, defined fields of membership would also be eliminated for federal corporates. NCUA encourages commenters to address any concerns or benefits to the credit union system from such an action.

A number of corporates have indicated the need for a clearer definition of what constitutes "correspondent services." NCUA believes clarification is warranted, and encourages commenters to provide specific examples of appropriate correspondent services and definition terminology.

Section 704.15 Audit Requirements

Statement of Auditing Standard (SAS) No. 70, Reports on the Processing of Transactions by Service Organizations, provides guidance: (1) on the factors an independent auditor should consider when auditing the financial statements of a corporate credit union that uses a service organization to process certain transactions; and (2) for independent service auditors who issue reports for a corporate credit union that functions as service organization for others. This report is primarily intended for the user organization's auditors.

NCUA is seeking comment on a number of specific questions regarding requirements for SAS 70 reports under the latter situation noted above. Should a corporate credit union, when processing transactions for others as a service organization, be required to obtain a SAS 70 report. NCUA is aware that user organization auditors, in seeking to comply with auditing standards, routinely appeal to the

service organization to provide a SAS 70 report through its service auditor.

If regulation requires a SAS 70 report, should it only apply to corporate credit unions above a particular asset size?

Additionally, the Board seeks comment on the two types of SAS 70 reports a service auditor can provide the corporate credit union that functions as a service organization processing transaction for others. These are: (1) a report on controls placed in operation; and (2) a report on controls placed in operation and tests of operating effectiveness. Generally, the service organization determines which type of engagement needs to be performed. Should the regulation specify which type of report the corporate must obtain?

Section 704.18 Fidelity Bond Coverage

NCUA seeks public comment on whether fidelity bond coverage should be made optional for corporates. In lieu of a fidelity bond, what types of criteria (such as maintaining a specific capital level) should be utilized to determine appropriate protection exists for the corporate and its members?

Section 704.19 Wholesale Corporate Credit Unions

NCUA questions the need for separate regulatory requirements for wholesale corporates. NCUA invites comment on whether there is a need for separate regulatory requirements for wholesale corporates and, if such a need exists, whether the existing regulatory requirements are appropriate.

Appendix B—Expanded Authorities and Requirements

NCUA asks for comment on the existing investment authorities under each expanded authority section and recommendations for any additional investment powers. Any recommendations for additional investment authority should be consistent with the infrastructure and personnel expertise required by each of the four specific expanded authority levels.

NCUA believes it is necessary to review the permissible minimum credit ratings allowed under each authority level. For example, Part I and II provide authority to acquire asset-backed securities (ABS) rated no lower than AA. NCUA seeks comment on the existing minimum credit ratings allowed for Part I, Part II, and Part III expanded authority levels.

Part III

Part III authority allows corporates to make limited foreign investments.

NCUA has been asked to expand the types of foreign investments that corporates with Part III authority can make. NCUA seeks comments on the advisability of allowing corporates with Part III expanded authority to invest specifically in foreign ABS and foreign corporate debt obligations. NCUA invites commenters to provide additional recommendations for foreign investments that should be considered for Part III corporates.

Part IV

Part IV expanded authority allows corporates to engage in derivatives transactions. NCUA is cognizant that the derivative market is complex and seeks comment on the need for additional guidance in this area. Further, it has been proposed to allow corporates without Part IV authority to utilize derivatives as a means of risk reduction. This would be accomplished through a contractual arrangement with a corporate that has Part IV authority. NCUA invites commenters to address this proposal.

By the National Credit Union Administration Board on July 22, 1999.

Becky Baker,

Secretary of the Board.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NE-10-AD]

RIN 2120-AA64

Airworthiness Directives; AlliedSignal Inc. TFE731 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain AlliedSignal Inc. high pressure compressor (HPC) impellers installed on TFE731 series turbofan engines. This proposal would require replacing the HPC impeller with a serviceable impeller that has been eddy-current inspected. This proposal is prompted by an incident of an uncontained impeller failure due to cracking in the seal relief area of the HPC impeller. The actions specified by the proposed AD are intended to prevent fatigue cracking of the HPC impeller, which could result in

an uncontained failure of the impeller, an in-flight engine shutdown, and damage to the airplane.

DATES: Comments must be received by September 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-NE-10-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov." Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Aerospace Services Attn: Data Distribution, M/S 64-3/2101-201, P.O. Box 29003, Phoenix, AZ 85038-9003; telephone (602) 365-2493, fax (602) 365-5577. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712-4137; telephone (562) 627-5246, fax (562) 627-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NE-10-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-NE-10-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

The Federal Aviation Administration (FAA) has determined that on May 10, 1998, a high pressure compressor (HPC) impeller, part number (P/N) 3073394-1, separated and exited from an AlliedSignal Inc. TFE731-3R-1D turbofan engine. This impeller had accumulated 9,080 engine cycles since new (CSN) and 5,829 engine cycles since rework of the seal relief area in November, 1982, performed in accordance with AlliedSignal Service Bulletin (SB) TFE731-72-3239 RWK. Fracture analysis revealed a subsurface primary origin in the area of the seal relief and that the crack propagated through the bore for about 1.0 inch. No melt or forging related discrepancies were found at the fatigue origin; however, localized alpha grain colonies with an unfavorable fracture plane orientation were present. Recent low-temperature fatigue testing with a sustained peak hold time (dwell) at higher than engine-operating stresses indicate that normal cyclic fatigue lives may be influenced by dwell times and an unfavorable titanium macrostructure. The FAA has determined that low-cycle fatigue (LCF) cracking in high stressed areas of the HPC impeller may lead to an uncontained impeller separation. This condition, if not corrected, could result in fatigue cracking of the HPC impeller, which could result in an uncontained failure of the impeller, an in-flight engine shutdown, and damage to the airplane.

The FAA has reviewed and approved the technical contents of AlliedSignal Inc. Alert Service Bulletin (ASB) TFE731-A72-3641, dated November 24, 1998, that describes procedures for replacing the HPC impellers, P/Ns 3073393-1, 3073394-1, 3073433-1, and 3073434-1 with impellers that have been inspected using a specialized eddy