paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: ''Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.'' This interim rule will not have a direct effect 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 interim 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 is reviewing this rule. We are awaiting its determination whether this is a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 707

Advertising, Consumer protection, Credit unions, Reporting and recordkeeping requirements, Truth in savings.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR part 707 is amended as follows:

PART 707—TRUTH IN SAVINGS

1. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

2. Section 707.6 is amended by revising the heading and adding a new paragraph (c) to read as follows:

§ 707.6 Periodic statement disclosures.

* * * * *

(c) *Electronic communication.* (1) *Definition.* The term ''electronic communication'' means a message transmitted electronically between a member and a credit union in a format that allows visual text to be displayed on equipment such as a personal computer monitor.

(2) *Electronic communication between credit union and member.* A credit union and a member may agree that the credit union will send by electronic communication periodic statement disclosures required by § 707.6. Periodic statement disclosures sent by electronic communication to a member must comply with § 707.3 and any applicable timing requirements contained in this part.

[FR Doc. 99–30691 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR PART 711

Management Official Interlocks

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration (NCUA) revises its rule regarding management interlocks. The final rule conforms to recent statutory changes, modernizes and clarifies the rule, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements. The final rule was drafted through a coordinated effort among the following other federal financial regulatory agencies: the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), (collectively ''the banking agencies'').

EFFECTIVE DATE: This rule is effective January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Dianne M. Salva, Staff Attorney, Division of Operations, Office of General Counsel, at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

The Depository Institution Management Interlocks Act (12 U.S.C. 3201–3208) (the Interlocks Act) generally prohibits financial institution management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies (depository organizations). The Interlocks Act exempts interlocking arrangements between credit unions and, therefore, in the case of credit unions, only restricts interlocks between credit unions and other institutions—banks and thrifts and their holding companies.

The scope of the prohibition depends on the size and location of the involved organizations. For instance, the Interlocks Act prohibits unaffiliated depository organizations, regardless of size, from establishing an interlock if both organizations have an office in the same community (the community prohibition). Unaffiliated depository organizations may not form an interlock if both organizations have total assets of $20 million or more and are located in the same Relevant Metropolitan Statistical Area (RMSA) (the RMSA prohibition). The Interlocks Act also prohibits unaffiliated depository organizations, regardless of location, from establishing an interlock if each organization has total assets exceeding specified thresholds (the major assets prohibition).

Section 2210 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPR Act) amended §§ 204, 206, and 209 of the Interlocks Act (12 U.S.C. 3203, 3205 and 3207).[1] Section 2210(a) of the EGRPR Act amended the Interlocks Act by changing the thresholds for the major assets prohibition under 12 U.S.C. 3203. Prior to the EGRPR Act, management officials of depository organizations with total assets exceeding $1 billion were prohibited from serving as management officials of unaffiliated depository organizations with assets exceeding $500 million, regardless of the location of the organizations or their depository institution affiliates.[2] The EGRPR Act raised the thresholds to $2.5 billion and $1.5 billion, respectively. The revision also authorized NCUA to adjust the thresholds by regulation, as necessary to allow for inflation or market conditions.

Section 2210(b) of the EGRPR Act permanently extended the grandfather and diversified savings and loan holding company exemptions in 12 U.S.C. 3205. Prior to the EGRPR Act, these exemptions were subject to a 20-year time limit beginning November 10,

[1] The OCC, the Board, the FDIC, and the OTS, (collectively, the Agencies) recently published final rules similar to NCUA to implement the EGRPR Act. 51673 (September 24, 1999).

[2] The Agencies, and NCUA, define ''total assets'' of diversified savings and loan holding companies and bank holding companies exempt from § 4 of the Bank Holding Company Act to include only the assets of their depository institution affiliates. *See* 12 CFR 26.2(r), 212.2(q), 348.2(q), 348.2(q), 711.2(r), and 563f.(r).

1978. The EGRPR Act amended sec. 3205(a) to permit persons who began dual service as management officials of more than one depository organization before November 10, 1978, to continue such service indefinitely. Similarly, sec. 3205(b) was amended to permit a person who serves as a management official of a depository organization and of a company that is not a depository holding company to continue to serve as an official of both entities indefinitely if the non-depository organization becomes a diversified savings and loan holding company. The EGRPR Act also repealed sec. 3205(c). That provision, which mandated agency review of grandfathered interlocks before March 1995, became outdated.

The EGRPR Act also amended 12 U.S.C. 3207 to provide that NCUA may adopt ''regulations that permit service by a management official that would otherwise be prohibited by [the community, RMSA, or major assets prohibitions], if such service would not result in a monopoly or substantial lessening of competition.'' This change repealed the specific ''regulatory standards'' and ''management consignment'' exemptions added by the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act),[3] and restored the NCUA's broad authority to create regulatory exemptions to the statutory prohibitions on interlocks.

II. The Proposal

On October 29, 1998, NCUA published a notice of proposed rulemaking (the proposal) to implement these statutory changes. 63 FR 57945, October 29, 1998. The proposal also renewed an earlier proposal for a small market share exemption that had been advanced by the FRB, OCC and FDIC before enactment of the CDRI Act.

III. The Final Rule and Comments Received

NCUA received four comments, all in favor of the proposal. Several commenters emphasized the importance of coordination among NCUA and the banking agencies. Most of the proposed changes received either no comments or uniformly favorable comments. Accordingly, NCUA has adopted the proposal with only one minor change. The following discussion summarizes the amendments to NCUA's management interlocks rule and the comments received.

A. Definitions

Current NCUA regulations define key terms implementing the Interlocks Act. A number of these definitions were added or revised in 1996 to implement the CDRI Act. With the repeal of the specific exemptive standards in the CDRI Act, two of these definitions have become unnecessary and can be removed. NCUA received no comments on the proposed elimination of these terms and therefore adopts this provision as proposed.

B. Major Assets Prohibition

Prior to the EGRPR Act, a management official of a depository organization (or its affiliates) having total assets exceeding $1 billion could not serve as a management official of any depository organization with total assets exceeding $500 million (or its affiliates) regardless of location. The EGRPR Act revised the asset thresholds for the major assets prohibition from $1 billion and $500 million to $2.5 billion and $1.5 billion, respectively. The legislation also authorized the NCUA to adjust the threshold from time to time to reflect inflation or market changes.

NCUA proposed to amend the regulations to reflect the new threshold amounts, and to add a mechanism providing for periodic adjustments of the thresholds. The adjustment would be based on changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (the Consumer Price Index). In years when changes in the Consumer Price Index would change the thresholds by more than $100 million, NCUA, along with the banking agencies, will announce the change by a final rule without notice or opportunity for comment published in the **Federal Register**. For those years in which changes in the Consumer Price Index would not change the thresholds by more than $100 million, NCUA and the banking agencies will not adjust the threshold. NCUA, however, wishes to clarify that if the threshold is not adjusted to reflect a Consumer Price Index change in any given year, the change for that year will be considered in computing adjustments to the threshold in subsequent years. NCUA also invited comment on the types of market changes that may warrant subsequent adjustments to the major assets prohibition.

One commenter expressed support for the proposal to periodically adjust the thresholds based on the Consumer Price Index, but admonished NCUA to coordinate any changes with the banking agencies to ensure that all supervisory agencies are using a consistent standard. NCUA agrees that such coordination among it and the banking agencies will ensure consistency in the standard. NCUA intends to coordinate with the banking agencies on such adjustments, just as it has coordinated these changes to the rule. Accordingly, NCUA adopts the mechanism providing for periodic adjustments of the thresholds set forth in the proposal without any changes.

C. Regulatory Standards and Management Consignment Exemptions

The current regulations contain Regulatory Standards and Management Consignment exemptions which were predicated on sec. 3207 of the Interlocks Act. The EGRPR Act removed the specific exemptions from the Interlocks Act and substituted a general authority for the Agencies to create exemptions by regulation. Accordingly, the proposal recommended removal of these regulatory exemptions. NCUA received no comment on this provision. NCUA finds the removal of the exemptions appropriate in light of their statutory repeal and therefore adopt this provision as set forth in the proposal without any changes.

D. General Exemptive Authority

Section 2210(c) of the EGRPR Act authorizes NCUA to adopt regulations permitting service by a management official that would otherwise be prohibited by the Interlocks Act, if such service would not result in ''a monopoly or substantial lessening of competition.'' To implement this authority, NCUA proposed to exempt otherwise prohibited management interlocks where the dual service would not result in a monopoly or substantial lessening of competition and would not otherwise threaten safety and soundness. The process for obtaining such exemptions will be set out in an NCUA directive to credit unions.

Since 1979, when regulations implementing the Interlocks Act were first promulgated, NCUA has recognized that interlocks involving certain classes of depository organizations present a reduced risk to competition, and that, by enlarging the pool of management available to such organizations, competition could be enhanced. Thus, in the initial interlocks rules published in 1979, NCUA reserved the authority to permit interlocks to strengthen newly-chartered organizations, troubled organizations, organizations in low- or moderate-income areas and organizations controlled or managed by

[3] NCUA adopted final regulations implementing the management interlocks provision of the CDRI Act, effective October 1, 1996. *See* 61 FR 50702, September 27, 1996. The banking agencies also adopted final regulations implementing the management interlocks provisions of the CDRI Act, effective October 1, 1996. *See* 61 FR 40293. August 2, 1996.

minorities or women. The authority to permit interlocks in such circumstances was deemed ''necessary for the promotion of competition over the long term.'' *See* 44 FR 42161, 42165 (July 19, 1979). Prior to the CDRI Act, these exemptions were granted to meet the need for qualified management. The Management Consignment exemption under the CDRI Act was generally available to the same four classes of organizations, but on a more limited basis.

With the EGRPR Act's restoration of the broad exemptive authority under the Interlocks Act, NCUA again has authority to grant exemptions that will not adversely affect competition. NCUA believes that interlocks involving the four classes of organizations previously identified may provide management expertise needed to enhance the ability of the organizations to compete. Accordingly, NCUA proposed to establish a rebuttable presumption that an interlock would not result in a monopoly or substantial lessening of competition, if: (1) The depository organization is located in, and primarily serves, low-or moderate-income areas; (2) the depository organization is controlled or managed by members of a minority group or women; (3) the depository institution is newly-chartered; or (4) the depository institution, or in the case of a depository organization, a depository institution under its control, is deemed to be in ''troubled condition'' under regulations implementing sec. 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). 12 U.S.C. 1831i.

A claim that factors exist giving rise to a presumption does not preclude NCUA from denying a request for an exemption if NCUA finds, based on available materials, that the presumption is rebutted. That is, an exemption request may be denied if NCUA determines that the interlock would result in a monopoly or substantial lessening of competition. The presumptions are designed to provide greater flexibility to classes of organizations that may have greater need for seasoned management, but the presumptions are rebuttable because NCUA recognizes that such needs can only be met in a manner that is consistent with the statute.

The definitions of ''area median income'' and ''low- and moderate-income areas'' added to the regulations in 1996 to implement the CDRI Act amendments are being retained to provide guidance as to when an organization would qualify for one of the presumptions. Interlocks that are based on the presence of a rebuttable presumption would be allowed to continue for three years, unless otherwise provided in the approval order. Nothing in the proposed rule would prevent an organization from applying for an extension of an interlock exemption granted under a presumption if the factors continued to apply. The organizations would also be free to utilize any other exemption that may be available.

NCUA also proposed that any other interlock approved under this section be allowed to continue unless it becomes anticompetitive, unsafe or unsound, or is subject to a condition requiring termination at a specific time.

One commenter supported the general exemption and stated that the presumptions in the proposal were suitable, but cautioned that any request for an interlock extension beyond three years should be closely scrutinized. NCUA recognizes that the permitted interlocks are exceptions to the rule and will assess the need for such service on a case-by-case basis. NCUA is adopting the proposed section with no changes.

E. Small Market Share Exemption

In 1994, the OCC, FDIC, and FRB published notices of proposed rulemaking seeking comment on a proposed market share exemption. The proposed exemption would have been available for interlocks involving institutions that, on a combined basis, would control less than 20% of the deposits in a community or relevant MSA. These agencies published small market share exemption proposals pursuant to the broad exemptive authority vested in the agencies prior to the CDRI Act. Because the CDRI Act restricted the agencies' broad rulemaking authority, the OCC, FDIC, and FRB withdrew their proposals.[4] The broad exemptive authority under the EGRPR Act again authorizes the small market share exemption. Accordingly, NCUA joins the banking agencies in renewing the proposal for the small market share exemption.

The Interlocks Act, by discouraging common management among financial institutions, seeks to prevent unaffiliated institutions from having an adverse impact on competition in the products and services they offer. Where depository institutions dominate a large portion of the market, these risks are significant. When a particular market is served by many institutions, however, the risks diminish that depository institutions with interlocking relationships can adversely affect the products and services available in their markets.

NCUA's proposal stated that the combination of the shares and deposits of two institutions would provide a meaningful assessment of the capacity of the two institutions to control credit and related services in their market. Accordingly, NCUA proposed to exempt interlocking service involving two unaffiliated depository organizations that together control no more than 20% of the shares and deposits in any RMSA or community, as appropriate. Organizations claiming the exemption would be required to determine the market share in each RMSA and community in which both depository organizations (or affiliates) are located. Under the proposal, to determine their eligibility for the exemption, depository organizations would need to obtain appropriate share and deposit data from NCUA and appropriate deposit data from the FDIC.

NCUA received two comments in support of the small market share exemption, one emphasizing that the rule must conform to that of the other banking agencies and another emphasizing the importance that deposits in all insured financial institutions, banks, thrifts and credit unions, be included in the calculation. The banking agencies proposed that depository organizations rely only on bank and thrift data collected by the FDIC in its Summary of Deposits to determine eligibility for the small market share exemption. NCUA proposed that the bank and thrift data from the Summary of Deposits be combined with credit union data from NCUA to calculate total assets in a given market and market share. Both the Summary of Deposits, and the NCUA data are readily accessible on the Internet and each permits the user to search for deposit and asset data by city, state and zip code. However, the FDIC database reports deposit and asset information by an institution's branch location, while NCUA's database does not. NCUA does not collect information from credit unions on a branch by branch basis; rather it attributes all share, deposit and asset information to a credit union's main branch. If credit union data were included in the calculation of total assets in a community, the figure may be inaccurate. For example, in a community where the main branch of a

[4] *See* OCC, 59 FR 29740 (June 9, 1994), FDIC, 59 FR 18764 (April 20, 1994), and FRB, 59 FR 7909 (February 17, 1994) for proposals prior to CDRI Act. Following enactment of the CDRI Act these proposals were withdrawn; 60 FR 67424 (December 29, 1995) for withdrawal by OCC and FRB; and 60 FR 7139 (February 7, 1995) for withdrawal by the FDIC.

large credit union is located, the credit union assets would artificially inflate the market calculations. At the same time, the calculations in a nearby community where the large credit union has a branch location would be artificially low.

The banking agencies believe that the deposit data maintained in the FDIC's Summary of Deposits provides a reliable approximation of the market for a given location. NCUA agrees. To the extent that credit unions hold a significant amount of the total deposits in a given market, this information may be used to demonstrate that an interlock will not result in a monopoly or substantial lessening of competition under the general exemption. This approach is consistent with the banking agencies' treatment of credit union shares in the merger context, where the banking agencies consider credit union shares as one of many mitigating factors if a merger transaction exceeds a specified threshold. Accordingly, for the sake of consistency and to permit all depository organizations to use a more accurate method of calculating market share, in the final rule, NCUA has eliminated the requirement that credit union shares be included in the calculation of market share, and instead permits the reliance on the Summary of Deposits data only. Organizations claiming the exemption must determine the market share in each RMSA and community in which both depository organizations (or their depository institution affiliates) have offices. The relevant market used for the small market share exception (that is, the RMSAs or communities in which both depository organizations or their depository institution affiliates have offices) are the same markets described in the community and RMSA prohibitions. The small market share exemption is not available for interlocks subject to the major assets prohibition.

The small market share exemption would continue to apply as long as the organizations meet the applicable conditions. Any event that causes the level of deposits controlled to exceed 20% of deposits in any RMSA or community, such as expansion or a merger, would be considered to be a change in circumstances. Accordingly, the depository organizations would have 15 months, under NCUA's regulation, to address the prohibited interlock by termination or otherwise. The agency with jurisdiction over the organization may establish a shorter period. Conforming changes relating to termination have been made to NCUA's change of circumstances provisions. The small market share exemption is not available for interlocks subject to the major assets prohibition.

No prior NCUA approval would be required in order to claim the proposed small market share exemption. Management is responsible for compliance with the terms of the exemption and for maintaining sufficient supporting documentation.

The most recently available deposit data will be used to determine whether organizations are entitled to the exemptions. FDIC publishes its deposit total information annually. A credit union seeking the exception is entitled to rely upon the deposit data that has been compiled for the previous year, until more recent data has been distributed.

F. General Comments

One commenter expressed concern that even though a management official interlock between two credit union is exempt under the Interlocks Act, credit unions should be made aware that a conflict may arise when a management official serves two credit unions. NCUA recognizes that dual service to two or more credit unions could pose a conflict and reminds credit unions that they may choose to adopt a policy addressing the issue.

G. Effective Date of the Final Rule

The banking agencies set the effective date of their joint final rule on January 1, 2000, in accordance with 12 U.S.C. 4802(b). Although NCUA is not subject to 12 U.S.C. 4802(b), in order to simplify compliance with the rule, NCUA has adopted the same effective date. Compliance with the final rule is not mandatory until the effective date. Section 4802(b), however, also permits any person subject to the regulation to comply with the regulation voluntarily, prior to the effective date. To the extent that a credit union and bank desire to comply voluntarily with the final rule, they may elect to do so immediately. If a depository institution elects to comply voluntarily with any section of the management interlocks rule, it must comply with the entire part.

Paperwork Reduction Act

NCUA may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control number is 3133–0152. NCUA sought comment on the burden estimates for the information collections listed below and received no comments that specifically addressed the burden stemming from these information collections. The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget under control number 3604–0118 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (3604–0118), Washington, D.C. 20503, with copies of such comments to be sent to NCUA, 1775 Duke Street, Alexandria, VA 22314, Attention: James L. Baylen, Paperwork Reduction Act Coordinator, Telephone No. (703) 518–6410; Fax No. (703) 518–6433; E–Mail address: OAMAIL@NCUA.GOV.

The collection of information requirements in this proposed rule are found in 12 CFR 711.4(h)(1)(i), 711.5(a)(1), 711.5(a)(2), 711.5(b), 711.6(a), and 711.6(c). This information is required to evidence compliance with the requirements of the Interlocks Act by federal credit unions and federally insured, state-chartered credit unions. The likely respondents are federal credit unions and federally insured, state-chartered credit unions. In the past several years, NCUA has received approximately one management interlock application each year. The following estimates are provided:

Estimated average annual burden hours per respondent: 3 hours.

Estimated number of respondents: 1.

Start-up costs to respondents: None.

No issues of confidentiality under the provisions of the Freedom of Information Act normally arise for the applications.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), NCUA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. NCUA expects that this rule will not: (1) have significant secondary or incidental effects on a substantial number of small entities; or (2) create any additional burden on small entities. These conclusions are based on the fact that the regulations relax the criteria for obtaining an exemption from the interlocks prohibitions, and specifically address the needs of small entities by creating the small market share exemption. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

The NCUA Board has determined that this proposal is not a significant regulatory action under Executive Order 12866.

Executive Order 12612

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

Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget is reviewing this rule to determine that it is not major for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 711

Antitrust, Credit unions, Holding companies, Management official interlocks.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set out in the preamble, the NCUA amends 12 CFR part 711 as follows:

PART 711—MANAGEMENT OFFICIAL INTERLOCKS

1. The authority citation for Part 711 continues to read as follows:

Authority: 12 U.S.C. 3201–3208.

§ 711.2 [Amended]

1. Section 711.2 is amended by removing paragraphs (b) and (f) and redesignating paragraphs (c) through (s) as paragraphs (b) through (q), respectively.

2. Section 711.3 is amended by revising paragraph (c) to read as follows:

§ 711.3 Prohibitions.

* * * * *

(c) *Major Assets.* A management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate thereof) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate thereof), regardless of the location of the two depository organizations. The NCUA will adjust these thresholds, as necessary, based on year-to-year change in the average of the Consumer Price Index for the Urban Wage Earners and Clerical Workers, not seasonally adjusted, with rounding to the nearest $100 million. The NCUA will announce the revised thresholds by publishing a notice in the **Federal Register**.

3. Section 711.5 is revised to read as follows:

§ 711.5 Small market share exemption.

(a) *Exemption.* A management interlock that is prohibited by § 711.3(a) or § 711.3(b) is permissible, provided:

(1) The interlock is not prohibited by § 711.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20% of the deposits, in each RMSA or community in which the depository organizations (or their depository institution affiliates) are located. The amount of deposits will be determined by reference to the most recent annual Summary of Deposits published by the FDIC. This information is available on the Internet at http://www.fdic.gov.

(b) *Confirmation and records.* Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

4. Section 711.6 is revised to read as follows:

§ 711.6 General exemption.

(a) *Exemption.* NCUA may, by agency order issued following receipt of an application, exempt an interlock from the prohibitions in § 711.3, if NCUA finds that the interlock would not result in a monopoly or substantial lessening of competition, and would not present other safety and soundness concerns.

(b) *Presumptions.* In reviewing applications for an exemption under this section, NCUA will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the depository organization seeking to add a management official:

(1) Primarily serves, low- and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group or women;

(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in ''troubled condition'' as defined in § 701.14(b)(3) of this chapter.

(c) *Duration.* Unless a shorter expiration period is provided in the NCUA approval, an exemption permitted by paragraph (a) of this section may continue so long as it would not result in a monopoly or substantial lessening of competition, or be unsafe or unsound. If the NCUA grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided in the approval.

5. Section 711.7 is amended by revising paragraph (a) to read as follows:

§ 711.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service if a change in circumstances causes the service to become prohibited. A change in circumstances may include, but is not limited to, an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

* * * * *

[FR Doc. 99–30692 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 712

Credit Union Service Organizations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final rule reinstates real estate brokerage services as a permissible credit union service organization (CUSO) service. Because the existing real estate brokerage CUSOs do not appear to present a safety and soundness risk and the commenters have stated persuasively that there are sufficient safeguards in place to deal with any potential conflicts, the Board is reinstating real estate brokerage services as permissible CUSO service.

DATES: This rule is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

In March 1998, the NCUA Board removed real estate brokerage services from the list of permissible CUSO services. 12 CFR 712.6(b). On November 19, 1998, the NCUA Board requested