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FEDERAL RESERVE SYSTEM

12 CFR Parts 211 and 265

[Regulation K; Docket No. R–0994]

International Banking Operations; Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correcting amendments.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting correcting amendments to the final rule published in the **Federal Register** of October 26, 2001, regarding international banking operations and the corresponding delegations of authority. The corrections clarify a number of provisions and correct a citation appearing in Subpart A, and restore a provision that was adopted in January 2001, but was inadvertently deleted from the rule.

DATES: Effective November 26, 2001.

FOR FURTHER INFORMATION CONTACT: Ann Misback, Assistant General Counsel (202/452–3788), or Alison MacDonald, Counsel (202/452–3236), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On October 17, 2001, the Board adopted final revisions to subparts A, B, and C of Regulation K, governing international banking operations and to corresponding rules regarding delegations of authority. (*See* 66 FR 54346, October 26, 2001). The final revisions become effective on November 26, 2001. This document makes the following corrections to those final revisions: (1) Clarifies, with respect to the second of five factors considered by the Board in acting on proposals by member banks to invest more than 10 percent of capital and surplus in Edge and agreement corporation subsidiaries, that amounts invested in and retained earnings of any foreign bank subsidiaries are to be included in the relevant capital calculation; (2) restores a provision on the protection of customer information by Edge and agreement corporations that was adopted in January 2001 and was inadvertently omitted from the rule; (3) adds a cross reference in the portfolio investment section of 211.8(c)(3) to the aggregate equity limit previously adopted by the Board set forth in section 211.10(a); (4) corrects a United States Code citation appearing in a footnote to section 211.9 of the rule; and (5) clarifies the scope of authority delegated to the Secretary of the Board of Governors of the Federal Reserve System and the Reserve Banks to approve applications by a member bank to invest more than 10 percent of capital and surplus in Edge and agreement corporation subsidiaries by incorporating Board-imposed conditions on the scope of that authority.

List of Subjects

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 265

Authority delegations (Government agencies), Banks, banking, Federal Reserve System.

Accordingly, 12 CFR parts 211 and 265 are corrected by making the following correcting amendments:

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. Section 211.5 is amended as follows:

a. Paragraph (h)(2)(ii) is revised; and

b. A new paragraph (l) is added.

The revision and addition read as follows:

§ 211.5 Edge and agreement corporations.

* * * * *

(h) * * *

(2) * * *

(ii) The total capital invested by the bank in its Edge and agreement corporations when combined with retained earnings of the Edge and agreement corporations (including amounts invested in and retained earnings of any foreign bank subsidiaries) as a percentage of the bank's capital;

* * * * *

(l) *Protection of customer information.* An Edge or agreement corporation shall comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805), set forth in appendix D–2 to part 208 of this chapter.

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2. Section 211.8 is amended as follows:

a. Paragraphs (c)(3)(ii) and (iii) are respectively redesignated as paragraphs (c)(3)(iii) and (iv); and

b. A new paragraph (c)(3)(ii) is added.

The addition reads as follows:

§ 211.8 Investments and activities abroad.

* * * * *

(c) * * *

(3) * * *

(ii) *Aggregate Investment Limit.* Portfolio investments made under authority of this subpart shall be subject to the aggregate equity limit of § 211.10(a)(15)(iii).

* * * * *

3. In § 211.9, footnote 5, remove the citation ''12 U.S.C. 616'' and add in its place ''12 U.S.C. 615''.

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. Section 265.5(d)(3) is revised to read as follows:

§ 265.5 Functions delegated to Secretary of the Board.

* * * * *

(d) * * *

(3) *Investments in Edge and Agreement Corporations.* To approve an application by a member bank to invest more than 10 percent of capital and surplus in Edge and agreement corporation subsidiaries, provided that:

(i) The member bank's total investment, including the retained earnings of the Edge and agreement corporation subsidiaries, does not exceed 20 percent of the bank's capital and surplus or would not exceed that level as a result of the proposal; and

(ii) The proposal raises no significant policy or supervisory issues.

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2. Section 265.11(d)(11) is revised to read as follows:

§ 265.11 Functions delegated to Federal Reserve Banks.

* * * * *

(d) * * *

(11) *Investments in Edge and agreement Corporation subsidiaries.* To approve an application by a member bank to invest more than 10 percent of capital and surplus in Edge and agreement corporation subsidiaries, provided that:

(i) The member bank's total investment, including the retained earnings of the Edge and agreement corporation subsidiaries, does not exceed 20 percent of the bank's capital and surplus or would not exceed that level as a result of the proposal; and

(ii) The proposal raises no significant policy or supervisory issues.

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By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, November 16, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–29177 Filed 11–21–01; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 722 and 742

Regulatory Flexibility Program

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board is issuing a final rule that will permit credit unions with advanced levels of net worth and consistently strong supervisory examination ratings to be exempt, in whole or in part, from certain NCUA regulations. The NCUA Board is also issuing a final amendment to the appraisal regulation to increase the dollar threshold from $100,000 to $250,000 for when an appraisal is required. This final rule and final amendment will reduce regulatory burden.

DATES: The rule is effective March 1, 2002.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314 or telephone (703) 518–6540; or Lynn K. Markgraf, Program Officer, Office of Examination and Insurance, 1775 Duke Street, Alexandria, Virginia, or telephone (703) 518–6360.

SUPPLEMENTARY INFORMATION: On March 16, 2000, the NCUA Board issued an advance notice of proposed rulemaking (ANPR) on a regulatory flexibility and exemption (RegFlex) program with a sixty-day comment period. 65 FR 15275 (March 22, 2000). The Board received seventy-four comments on the RegFlex concept. After reviewing the issues addressed by the commenters, the Board issued a Notice of Proposed Rulemaking (NPR) on March 8, 2001. 66 FR 15055 (March 15, 2001). Although the Board actually received over 1400 letters or e-mail messages, NCUA staff credited multiple comment letters from the same credit union as one comment, for a total of 1304 comments on the proposed rule. Comments were received from 551 federal credit unions, 267 state-chartered credit unions, 438 credit union volunteers or members, 33 leagues, six national credit union trade associations, four realtors and associations, one bank trade association, one appraisal association, one insurance company, one law firm, and one construction company.

In general, 1297 commenters supported the proposed regulation and many commenters supported the proposal as written. Many supporters encourage the NCUA Board to provide further regulatory flexibility in the future. A number of commenters recommended some changes to the proposed rule. Many commenters commended the Board for its bold initiative and most of them believe this regulatory approach will reduce regulatory burden and provide greater flexibility for those credit unions that have demonstrated a track record of safe and sound operations.

Seventy-nine commenters believe that RegFlex credit unions will have a competitive advantage and fifty-eight of these commenters believe that well-managed credit unions deserve this advantage. Thirty-six commenters stated that RegFlex credit unions would not have a competitive advantage.

Regarding risk to the National Credit Union Share Insurance Fund (NCUSIF), 184 commenters stated that the adoption of this proposal will not significantly increase risk. Most of these commenters believe no increase in risk will occur because healthy credit unions have the ability to manage any increased safety and soundness concerns. Two commenters believe the proposal will increase risk. Many commenters believe the regulation will encourage credit unions to become stronger financial institutions.

Discussion

RegFlex Criteria

The first criterion for eligibility under this proposal, is that credit unions must have received a composite CAMEL code 1 or code 2 for two consecutive exams. The second criterion is that a credit union must have a net worth ratio of nine percent or greater, and be well-capitalized under NCUA's prompt corrective action regulations. 12 CFR Part 702. The NCUA Board believed the proposed criteria were generally sound and did not propose that a CAMEL 1 or 2 in management needs to be part of the criteria. One hundred and five commenters specifically supported the eligibility requirements as proposed. Twenty-two commenters specifically agreed with the NCUA Board that there should not be a separate management component for RegFlex eligibility. A few commenters stated that a credit union should have a 1 or 2 in management to be eligible for RegFlex.

A few commenters suggested different eligibility requirements to obtain the benefits of RegFlex. One of these commenters requested the Board not only look at the net worth and CAMEL ratings of credit unions, but also look to how well they are serving their members and whether those members are satisfied. Almost all of the other commenters' suggestions retained some of the Board's proposal of either a CAMEL component or net worth ratios. While the Board agrees that service to members and member satisfaction are important issues for credit unions, these are not generally considered to be safety and soundness issues, and would not be easily measured criteria for purposes of RegFlex. The Board continues to believe that CAMEL ratings and net worth ratios are the best measures of how well a credit union is managed and how much risk it presents to the NCUSIF and the credit union system. That is, consistent with safety and soundness concerns, credit unions with advanced levels of net worth and consistently strong supervisory examination ratings have earned exemptions from certain NCUA Regulations.

CAMEL Rating

Thirty-two commenters stated that CAMEL ratings should not be used to determine eligibility because they can be used unfairly by examiners to keep credit unions out of the program. Many of these commenters believe that the CAMEL rating is arbitrary and