

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, and 704

RIN: 3133-AE33

Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is making technical amendments to NCUA's regulations regarding the rating system for corporate credit unions. The technical amendments conform the regulations to a recent policy change adopted by the Board. Specifically, the policy change eliminates the use of the Corporate Risk Information System (CRIS) for corporate credit unions and replaces it with the CAMEL rating system. The technical amendments merely update the regulations to reflect the conversion from the CRIS to the CAMEL rating system for corporate credit unions.

DATES: The final rule is effective on January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Lisa Henderson, Staff Attorney, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

- I. Background and Purpose of the Final Rule
- II. Regulatory Procedures

I. Background and Purpose of the Final Rule

Why is the NCUA Board issuing this rule?

In September 2013, the Board adopted a policy change which converted the rating system for corporate credit unions from CRIS to CAMEL. The Board made this change to: 1) improve rating comparability, as CAMEL is the standard rating system for natural person credit unions and banks; 2) reduce complexity in managing two different rating systems; 3) provide a uniform rating system to promote greater consistency in rating assignments; and 4) facilitate governance, as corporate credit union directors are familiar with CAMEL at their own natural person credit unions. The Board is now amending §§700.2, 701.14, and 704.4,¹ which still reference the former CRIS rating system, to update them to reflect the current CAMEL rating system.

¹12 CFR 700.2, 701.14, and 704.4.

III. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under \$50 million in assets). NCUA certifies that these technical amendments will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.² For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. NCUA has determined that the technical amendments in this final rule do not increase the paperwork requirements under PRA or regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to

² 44 U.S.C. 3507(d); 5 CFR part 1320.

adhere to fundamental federalism principles. This final rule will not have a substantial 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 final rule does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.³

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996⁴ (SBREFA) 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 Procedure Act.⁵ NCUA has submitted this rule to the Office of Management and Budget for it to determine if the final rule is a “major rule” for purposes of SBREFA. NCUA does not believe the rule is major.

Final Rule

Generally, the Administrative Procedure Act (APA) requires a federal agency to provide the public with notice and the opportunity to comment on agency rulemakings. The

³ Pub. L. 105–277, 112 Stat. 2681 (1998).

⁴ Pub. L. 104–121, 110 Stat. 857 (1996).

⁵ 5 U.S.C. 551.

amendments in this rule are non-substantive and technical. They make minor revisions to reflect the conversion to the CAMEL rating system for corporate credit unions. The APA permits an agency to forego the notice and comment period under certain circumstances, such as when a rulemaking is technical and non-substantive. NCUA finds that, in this instance, notice and public comment are unnecessary under section 553(b)(3)(B) of the APA.⁶ NCUA also finds good cause to dispense with the 30-day delayed effective date requirement under section 553(d)(3) of the APA.⁷ The rule, therefore, will be effective January 1, 2014.

List of Subjects

12 CFR Part 700

Credit unions.

12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 704

Corporate credit unions, Credit unions, Investments, Reporting and recordkeeping requirements.

⁶ 5 U.S.C. 553(b)(3)(B).

⁷ 5 U.S.C. 553(d)(3).

By the National Credit Union Administration Board on December 12, 2013.

Gerard Poliquin

Secretary of the Board

For the reasons discussed above, the NCUA Board amends 12 CFR parts 700, 701, and 704 as follows:

PART 700—DEFINITIONS

1. The authority citation for part 700 continues to read as follows:

Authority: 12 U.S.C. 1752, 1757(6), 1766.

2. Amend §700.2 by revising paragraph (2) of the definition of “Troubled Condition” to read as follows:

§700.2 Definitions.

* * * * *

Troubled Condition means:

(1)* * *

(2) In the case of an insured corporate credit union:

(i) A federal credit union that has been assigned a 4 or 5 CAMEL rating by NCUA; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 CAMEL rating by either NCUA, after an on-site contact, or its state supervisor; or

(iii) A federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C 1788, that remains outstanding and unextinguished.

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PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

3. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C.

3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

§701.14

4. Revise §701.14(b)(4) to read as follows:

§701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(b)* * *

(4) In the case of an insured corporate credit union, *Troubled condition* means:

(i) A federal credit union that has been assigned a 4 or 5 CAMEL rating by NCUA; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 CAMEL rating by either NCUA, after an on-site contact, or its state supervisor; or

(iii) A federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, that remains outstanding and unextinguished.

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PART 704—CORPORATE CREDIT UNIONS

5. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, 1789.

6. Revise §704.4(d)(3)(ii) to read as follows:

§704.4 Prompt corrective action.

* * * * *

(ii) Unsafe or unsound practice. NCUA has determined, after notice and an opportunity for hearing pursuant to paragraph (h)(1) of this section, that the corporate credit union received a less-than-satisfactory CAMEL rating (*i.e.*, three or lower) for any rating category (other than in a rating category specifically addressing capital adequacy) and has not corrected the conditions that served as the basis for the less than satisfactory

rating. Ratings under this paragraph (d)(3)(ii) refer to the most recent ratings (as determined either on-site or off-site by the most recent examination) of which the corporate credit union has been notified in writing.

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