



National Credit Union Administration
Office of General Counsel

BOARD ACTION MEMORANDUM

TO: NCUA Board
DATE: November 7, 2019
FROM: Office of General Counsel
SUBJ: Final IRPS 19-1;
Delegation of Authority
SUP 49

ACTION REQUESTED: NCUA Board (Board) issuance of final Interpretive Ruling and Policy Statement (IRPS) 19-1 regarding exceptions to employment restrictions under Section 205(d) of the Federal Credit Union (FCU) Act (“Second Chance IRPS”) and adoption of Delegation of Authority SUP 49.

DATE ACTION REQUESTED: November 21, 2019.

OTHER OFFICES CONSULTED: None.

VIEWS OF OTHER OFFICES CONSULTED: N/A.

SUBMITTED TO INSPECTOR GENERAL FOR REVIEW: Yes.

RESPONSIBLE STAFF MEMBERS: Pamela Yu, Special Counsel to the General Counsel.

SUMMARY: The final Second Chance IRPS updates and revises the NCUA’s policy regarding statutory prohibitions imposed by Section 205(d) of the FCU Act, 12 U.S.C. 1785(d). Section 205(d) prohibits, except with the prior written consent of the Board, any person who has been convicted of any criminal offense involving dishonesty or breach of trust, or who has entered into a pretrial diversion or similar program in connection with a prosecution for such offense, from participating in the affairs of an insured credit union. The Board is rescinding current IRPS 08-1 and issuing this revised and updated IRPS to reduce regulatory burden and to expand employment opportunities for those who have paid their debt to society. The final Second Chance IRPS expands the current *de minimis* exception to reduce the scope and number of offenses that would require an application to the Board. Specifically, convictions or program entries for offenses involving insufficient funds checks of aggregate moderate value, small dollar simple theft, false identification, simple drug possession, and isolated minor offenses committed by covered persons as young adults will not require an application.

To further improve and streamline the consent application process, the Board is also adopting a Delegation of Authority, SUP 49, to delegate to the Regional Directors and the Director of the Office of National Examinations and Supervision, authority to approve or disapprove credit union-sponsored applications to request consent pursuant to Section 205(d). However, the Board will retain authority to approve or disapprove individual applications. In either case, where a credit union-sponsored or individual consent application is denied, the denied applicant may

request a hearing before the Board by submitting a written request within 30 days of notification of the adverse decision. The Board will continue to act upon any requests for a hearing following the disapproval of an application under Section 205(d), and will apply the process contained in 12 C.F.R. Part 747, Subpart D, governing prohibitions based on felony convictions, to any hearing request.

RECOMMENDED ACTION: Board approval to (1) issue the final Second Chance IRPS for publication in the *Federal Register*, effective 30 days after publication; and (2) adopt Delegation of Authority SUP 49.

ATTACHMENT: Final IRPS 19-1; Delegation of Authority SUP 49.