

BOARD ACTION MEMORANDUM

TO: NCUA Board

DATE: March 29, 2010

FROM: Office of Corporate
Corporate Credit Unions and
Office of General Counsel

SUBJ: Revision to Board Waiver
Permitting Alternate Capital Level for
Part 704 Compliance and Delegation of
Authority to OCCU Director to Modify or
Restrict the Board's Waiver

ACTION REQUESTED: NCUA Board revision to the waiver, granted on April 21, 2009, of various provisions in Part 704 to provide for the use of an alternative date for determining the capital level for purposes of regulatory compliance with certain capital-based requirements under Part 704. 12 C.F.R. Part 704.

DATE ACTION REQUESTED: April 29, 2010.

OTHER OFFICES CONSULTED: Office of Examination & Insurance.

VIEWS OF OFFICES CONSULTED: Concur

SUBMITTED TO INSPECTOR GENERAL FOR REVIEW: Yes

BUDGET IMPACT, IF ANY: None.

RESPONSIBLE STAFF MEMBERS: Paul Peterson, Director, Applications Section, Office of General Counsel; David Shetler, Senior Corporate Program Specialist.

SUMMARY: NCUA's corporate rule has several provisions setting regulatory limits and requirements based on a corporate credit union's capital. In 2007 and 2008, losses associated with the mortgage-backed securities held by a number of corporate credit unions began to have a severe impact on their capital. Additionally, some corporate credit unions without direct mortgage-backed security investments faced the loss of capital due to their paid-in capital and membership capital investments in U.S. Central Federal Credit Union.

To ensure uninterrupted service to natural person credit unions, in April 2009 the NCUA Board approved a waiver and issued an Order permitting corporate credit unions to use their capital level, as reported on their November 30, 2008 call report, for purposes of determining their compliance with certain capital-based requirements and limitations in the corporate rule. Under the terms of the April

2009 Order, the current waiver terminates on the effective date of the final amendments to Part 704 of NCUA's Rules and Regulations.

The proposed amendments to Part 704 provide corporate credit unions with a one-year period after the publication of the final rule before the new capital requirements become effective. To ensure continued access to services for natural person credit unions during this one-year time frame, staff recommends the Board permit corporates to continue to use their November 30, 2008, capital levels out to the one-year anniversary of the publication in the Federal Register of the final Part 704 amendments.

The staff notes that this proposed extension of the use of past capital levels is strictly an interim measure. As indicated in the proposed amendments to the corporate rule, NCUA intends to strengthen corporate capital standards to bring them in line with international Basel standards, and this extension period gives corporate credit unions a fair chance to consider and implement these new capital standards and also to understand the resolution of the legacy assets. During this extension period, corporates must continue to build their capital through expeditious capital solicitation and retained earnings growth.

RECOMMENDED ACTION: The Board issue the attached revised Board order to: (1) generally permit corporate credit unions to use the capital level, as reported on their November 30, 2008 call report, for purposes of determining regulatory compliance with capital-based requirements and limitations in the corporate rule; (2) establish a new termination date for the general waiver at the one-year anniversary of the publication in the Federal Register of the final amendments to Part 704, NCUA's corporate credit union rule, see 74 Fed. Reg. 65210 (December 9, 2009)(publication for public comment of proposed amendments to Part 704); (3) delegate to the OCCU Director the Board's authority to restrict or modify this general waiver as it applies to particular corporate credit unions based on safety and soundness considerations; and (4) supersede the order issued by the NCUA Board on April 21, 2009.

ATTACHMENTS: The revised Proposed Order and the Board Action Memorandum dated April 20, 2009, and supporting documentation.