

## **Interpretive Ruling and Policy Statement 11-1 -- Supervisory Review Committee (as amended by Interpretive Ruling and Policy Statement 12-1)**

Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act) requires that NCUA establish an independent intra-agency appellate process to review material supervisory determinations. The NCUA Board hereby establishes a Supervisory Review Committee (Committee) to implement Section 309.

It is NCUA policy to maintain good communication with all credit unions it supervises. Credit unions, examiners and regional and central office staff are encouraged to resolve disagreements informally and expeditiously. The NCUA Board expects that most disputes will be handled in that manner. The Committee and other appeals processes are available for certain disputes that cannot be resolved informally.

### **A -- Committee Structure, Scope and Procedures**

The Committee shall consist of three regular members of the NCUA's senior staff as appointed by the NCUA Chairman. None of the members shall be currently serving as a Regional Director, Associate Regional Director, Executive Director, Director of the Office of Small Credit Union Initiatives, or Senior Policy Advisor or Chief of Staff to a Board Member. One member shall be designated by the NCUA Chairman as 8 chairperson. All three Committee members shall serve for one year terms and may be reappointed for additional terms. Each member of the Committee shall have one vote and a quorum (two members) shall be present at each Committee meeting. Meetings may be held in person or via teleconference. A majority vote of the full Committee (two votes) is required for action on an appeal. Meetings will be scheduled, as appropriate, by the chairperson on an as needed basis.

Appeals of material supervisory determinations made by NCUA may be made by all federally insured credit unions (federal credit unions (FCUs) and federally-insured, state chartered credit unions (FISCUs). Appeals of denials of Technical Assistance Grant (TAG) reimbursements may be made by any "Participating Credit Union" as defined by 12 C.F.R. §705.3(b).

Material supervisory determinations are limited to: (1) composite CAMEL ratings of 3, 4, and 5 and all component ratings of those composite ratings; (2) adequacy of loan loss reserve provisions; and (3) loan classifications on loans that are significant as determined by the appealing credit union. Subject to the requirements discussed below, credit unions may also appeal to the Committee a decision of the Director of the Office of Small Credit Union Initiatives (OSCU) to deny Technical Assistance Grant (TAG) reimbursements.

An FCU, other than a corporate FCU, must contact the regional office regarding the examiner's decision within 30 days of the examiner's final determination. The decision

must be appealed to (postmarked or received by) the Committee either 30 days after a regional determination or 60 days after the regional office has been contacted if it has not made a determination.

A FISCU, other than a corporate FISCU, must contact the Regional Office within 30 days of the NCUA examiner's final decision. The Region will verify that the determination being appealed was made by an NCUA examiner. If the decision was made by the state, the appeal will be turned over to the state for appropriate action. If the decision was made by the NCUA examiner, the dispute will be handed by the Region and become appealable to the Committee either 30 days after a regional determination or 60 days after the regional office has been contacted if it has not made a determination. The Committee chairperson will reverify that the determination was made by NCUA. Regional staff and the Committee will notify and consult with the state supervisory authority in appropriate cases.

All federally insured corporate credit unions (FCUs and FISCUs) must contact the Office of Corporate Credit Unions concerning its examiner's final determination and then the Committee within the same time frames. Staff from the Office of Corporate Credit Unions and the Committee will consult with the state supervisory authority in appropriate cases involving corporate FISCUs.

All "Participating Credit Unions" must appeal a determination of the Director of OSCUI to deny a TAG reimbursement to the Committee within 30 days from the date of the denial.

The board of directors of the appealing credit union must authorize that the appeal be filed. Appeals must be submitted in writing and mailed or delivered to Chairman, Supervisory Review Committee, NCUA, 1775 Duke Street, Alexandria, VA 22314-3428.

Appeals may be made by letter, and must include the name of the appellant credit union, the determination or denial being appealed and the reasons for the appeal. Appellants are encouraged to submit all information and supporting documentation relevant to the matter in dispute.

Appellants are entitled to a personal appearance before the Committee. The Committee chairperson reserves the right, however, to attempt to work out the dispute through teleconference.

The determination or denial remains in effect pending appeal. The appeal does not prevent the NCUA from taking any action, either formal or informal, that it deems appropriate during the pendency of the appeal.

The Committee may request additional information from the appellant and/or the Regional Office, Office of Corporate Credit Unions, or OSCUI within 15 days of its receipt of the appeal. The information must be submitted to the Committee within 15 days of receipt of the Committee request. The Committee shall make a determination

on the appeal within 30 days from the date of the receipt of an appeal by the Committee or of its receipt of any requested additional information. These time requirements are subject to adjustment by the Committee, whether on its own or upon request of the appellant or the Region or other office involved. If time constraints do not permit all appeals to be adjudicated within the above time frames, the Committee will adjudicate material supervisory determination appeals before appeals of TAG reimbursement denials regardless of the order in which the Committee received the appeals.

Committee decisions on the denial of a TAG reimbursement are the final decisions of NCUA and are not appealable to the NCUA Board. All other appealable decisions must be appealed to the NCUA Board within 30 days of the appellant's receipt by the party of the Committee's decision.

## **B -- Other Appeals**

Procedures for various formal and informal adjudicative and non-adjudicative actions and proceedings not covered by the Supervisory Review Committee are found in Parts 709 (creditor claim appeals), 745 (share insurance appeals), 792 (Freedom of Information Act appeals) and 747 (appeals of various administrative and enforcement actions) of the NCUA Rules and Regulations (12 CFR 709, 745, 792, and 747). These parts should be reviewed to determine the procedures which apply for a particular appeal. In addition, the NCUA Board serves as the final administrative decision maker for major disputes that are not otherwise covered by this IRPS or Parts 709, 745, 792 or 747. These include disputes over chartering, insurance applications, field of membership expansion, merger, certain corporate credit union matters, charter changes and letters of understanding and agreement. These issues should first be pursued through the appropriate Regional Office or the Office of Corporate Credit Unions. Appeals concerning these matters should be addressed to the NCUA Board and submitted through the appropriate Regional Office or the Office of Corporate Credit Unions.

## **C -- Retaliation**

Alleged acts of retaliation should be reported to NCUA's Inspector General, who is authorized by Congress, under the Inspector General Act, to receive and investigate complaints and other information regarding abuse in agency programs and operations.

Any retaliation by NCUA staff against a credit union making any type of appeal will subject the employee to appropriate disciplinary or remedial action by the appropriate supervisor. Such disciplinary or remedial action may include oral or written warning or admonishment, reprimand, suspension or separation from employment, change in assigned duties, or disqualification from a particular assignment, including prohibition from participating in any examination of the credit union that was the subject of the retaliation.