Chapter 26

FEDERALLY INSURED STATE-CHARTERED CREDIT UNIONS (FISCUS)

TABLE OF CONTENTS

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Insurance Review Objectives

- To work cooperatively with state supervisory agencies to assess the financial and operational condition of federally insured state-chartered credit unions (FISCUs)
- To address material risk in FISCUs that may negatively affect the NCUSIF

Risk Categories

FISCUs, like all credit unions, are subject to the seven categories of risk, discussed in the Risk-Focused Program chapter. These risks include Credit, Interest Rate, Liquidity, Transaction, Compliance, Strategic, and Reputation. As with other credit unions, FISCUs have the obligation to mitigate their risk to the NCUSIF by implementing measures such as management's due diligence, sound internal controls, the audit process, and well-trained management and staff. The size and complexity of the credit union should determine the extent of these risk mitigation measures.

Overview

The National Credit Union Share Insurance Fund (NCUSIF) provides the same account insurance coverage to FISCUs as to federal credit unions. However, the means of monitoring insurance risk differs. NCUA recognizes state supervisory agencies as the government agencies primarily responsible for the supervision of insured state credit unions. State regulators normally share parts or all of the state examination reports or audits with the appropriate NCUA regional office.

When applying for federal share insurance, state credit unions sign an Agreement for Insurance of Accounts and agree to follow Part 741 of NCUA's Rules and Regulations. Appendix 26A contains a copy of the Agreement.

Each regional office and the respective state supervisory authority (SSA) create their own working relationships and agreements to accommodate the unique circumstances of each state. The agreements must contain provisions for periodic meetings, and the sharing of credit union information and insurance concerns.

These agreements with each SSA will determine how NCUA will communicate an insurance concern to the SSA, and may cause a variation to the procedures in this chapter. Communication between the region and each SSA may be as informal as periodic telephone calls or as structured as monthly written status reports or quarterly meetings.

The periodic meetings between regional management and each SSA will include (1) discussion of current issues, (2) review of existing or potential problem FISCUs, and (3) scheduling or coordination of scheduling onsite insurance examinations, reviews, and supervision contacts. After each meeting with the SSA, the region should evaluate, update, and reduce to writing the individual programs to reflect current agreements with each state.

NCUA limits its concerns to insurance risk, which includes safety and soundness issues that could have a material effect on the FISCU's operation. Specific safety and soundness areas to address, in addition to those discussed in Part 741 of the NCUA Rules and Regulations, include each of the seven risk areas identified in the Risk-Focused Program chapter.

NCUA's concerns include the following:

- The examiners adequately addressed material risks with the FISCUs;
- The credit union understands the seriousness of the risks; and
- An agreement or plan exists for resolving unacceptable risks in a timely manner.

Monitoring Insured Credit Unions

The primary ways by which NCUA monitors the financial condition and the progress of FISCUs are through the district examiner's review of examination reports completed by the SSA, 5300 Call Reports, the scope workbook, and the Financial Performance Reports (FPRs.)

State regulators provide copies of their examination reports to the respective NCUA regional office and upload completed scope workbooks to the NCUA server. The NCUA examiner independently reviews the report and scope workbook offsite to ensure they document the following:

- Identification of all material risks that may negatively affect the NCUSIF or the safety and soundness of the FISCU;
- Recommendation for corrective action that adequately addresses the potential insurance risk for such material risks;
- Establishment of reasonable timeframes for implementation; and
- Determination that the credit union is sufficiently progressing toward correcting previously noted problems (where applicable.)

Additional tools for monitoring FISCUs may include periodic receipt and review of the credit union's financial statements, attention to the news media, risk management reports using call report data, and discussions with the credit union officials, trade organizations, and the SSA. These sources may alert the SSAs, regional office, and examiner staff to adverse conditions affecting an individual credit union or a group of credit unions that serve a specific geographic area or a particular type field of membership.

These monitoring tools may trigger regional communication with the SSA for more information, revision of the scope workbook, and possible inclusion of the credit union in future onsite contacts. If these monitoring measures indicate no severe risks, NCUA usually does not require or take further action.

Criteria for Onsite Reviews

The SSA and NCUA share responsibility for developing mutually satisfactory criteria and procedures for scheduling and completing onsite insurance reviews. Reasonableness should govern NCUA's requests to conduct insurance reviews.

The fundamental purpose for onsite insurance reviews is to assess risk to the NCUSIF. To that end, NCUA will schedule FISCUs for onsite reviews based on risk factors of individual credit unions. For example, large credit unions, due to the concentration of assets, represent a substantial risk to the NCUSIF that necessitates greater oversight, including more frequent insurance reviews and supervision. Secondarily, NCUA performs its due diligence by selecting FISCUs as needed to assure a certain percentage of credit unions of varying size, complexity, and risk profile receive onsite reviews.

NCUA, as the administrator of the NCUSIF, has the legal and fiduciary responsibility to ensure the safety of the NCUSIF. Therefore, NCUA reserves the right to conduct an insurance review of any federally insured credit union if necessary to determine its condition for insurance purposes.

Planning an Onsite Contact

When planning an onsite contact in a FISCU, NCUA staff will consult with the SSA before contacting state credit union officials. Working agreements between the regional offices and individual SSAs have established defined procedures for various types of contacts and means of communicating information concerning risk areas that may affect the FISCUs in their jurisdictions. However, when examiners perform an onsite contact in a FISCU, they will explain to management and the officials the purpose for the contact and the reason for NCUA's involvement.

Types of Onsite Reviews

The two most common types of onsite FISCU reviews are an independent insurance review and a joint examination/insurance review. An independent insurance review differs from a joint examination/insurance review. In both, NCUA limits the scope of an insurance review to risk issues negatively affecting the NCUSIF, and does not address regulatory issues except as they relate to safety and soundness concerns.

During an insurance review in a FISCU, the NCUA examiners limit their role to the review and analysis of existing or potential risks to the NCUSIF only, rather than to complete an examination of the FISCU. Should the examiners uncover other safety and soundness problems during an insurance review, they should also address these problems. Therefore, NCUA will discuss with the SSA safety and soundness issues that require addressing and resolving, and will ensure that either the state or NCUA examiner discusses these issues with the credit union.

In joint examinations/insurance reviews, both NCUA and the SSA focus on risk issues (including safety and soundness issues, commensurate with the size, complexity, and risk profile of the credit union), while the state examiner focuses additionally on regulatory concerns.

Onsite Procedures

NCUA conducts an onsite insurance review in one of the following formats:

- Joint examination/insurance review - performed concurrently or jointly with the SSA. In most cases, the working agreement developed by the regional office and each respective state contains agreed-to procedures for joint examinations.

  In all joint examinations/insurance reviews, unless otherwise agreed to by the SSA, the SSA examiner will act as the examiner in charge. This means that the SSA examiner assumes responsibility for the scope workbook and leads all of the discussion with the credit union officials. Within the parameters of the working agreements, the SSA examiner in charge defines the scope of an individual FISCU examination, considering all relevant factors, including NCUA's concerns.

  NCUA, as administrator of the NCUSIF, will ensure satisfactory addressing of the risk factors that affect or potentially affect the NCUSIF. Otherwise, NCUA may need to express its concerns to the SSA in a joint meeting. NCUA examiners should contact their supervisory examiners and follow regional guidance if disagreements arise. If NCUA cannot agree to the scope of a joint examination/insurance review based on risk factors in the FISCU, it will conduct an independent insurance review.

  The goal of the joint examination/insurance review is to (1) assess the risk in the credit union, (2) address the credit union's risks to the satisfaction of both the SSA and NCUA, and (3) ensure the credit union adequately mitigates the risk. Responsibility for the scope workbook rests with the SSA examiner in charge.

- Insurance review - independently performed by NCUA staff. NCUA determines the scope of the insurance review, which it normally limits to insurance risk, including safety and soundness issues. NCUA generally does not address regulatory issues unless they present a risk that may affect the NCUSIF. For example, even though NCUA does not have responsibility for enforcing Regulation Z, Truth in Lending, with respect to state-chartered credit unions, a credit union could incur money penalties resulting from violations of Regulation Z that may result in losses for the credit union.

Rather than performing just an insurance review, NCUA will perform a complete examination if the SSA so requests and NCUA agrees to the SSA's request. In these cases, NCUA assumes responsibility for the scope workbook.

Whenever possible, NCUA schedules onsite insurance reviews in conjunction with state examinations. NCUA will remain as flexible as possible in working with the SSA, but not to the extent that risk to the NCUSIF increases. NCUA limits its examination steps to a review of a FISCU's insurance risk.

NCUA examiners should avoid duplication of the SSA's effort during a joint examination/insurance review. The SSA examiner in charge develops an examination plan outlining the division of work to address insurance issues, safety and soundness concerns, and regulatory requirements. The plan sets forth tentative timeframes for finishing various examination steps. While an efficient examination necessitates such a plan, both the plan and time should allow enough flexibility to accommodate expanding (or reducing) the examination scope if conditions in the credit union or preliminary findings so warrant.

The SSA and NCUA jointly assume responsibility for adequately addressing safety and soundness issues and for coordinating with the SSA examiner in charge any necessary corrective action. In a situation where the state law or regulation does not prohibit, or is silent regarding a policy or procedure that NCUA considers a violation of safe and sound practices, NCUA will take exception and, after notification and review with the SSA, reach agreement for appropriate corrective action. The treatment of the issue in the report depends on its severity and materiality.

During a joint examination/insurance review or an independent insurance review, and before meeting with credit union officials, state and federal examiners jointly discuss their findings and recommendations. Whether or not they reach agreement, state and federal examiners share responsibility for striving to reach compatible conclusions. Disagreements between NCUA and the SSA should not occur at briefings with the officials, and examiners should take care not to introduce topics during these meetings that they had not previously discussed.

If examiners cannot reach mutual agreement, their supervisors will attempt to resolve the disagreements before meeting with the credit union officials. Both parties understand that NCUA has the appropriate right to ensure that the SSA examiner in charge or a designee addresses all significant findings, concerns and recommendations with the credit union's officials and management, and communicates expected corrective actions to officials and management during the joint examination/insurance review or independent insurance review. This may result in NCUA voicing its own concerns in joint meetings; however, NCUA should not voice its concerns without prior discussions between the examiners' supervisors.

Assignment of CAMEL

During an insurance review, the NCUA examiner will not discuss CAMEL component or composite ratings with officials of the FISCU. In states where the SSA assigns a CAMEL code, the code assigned by NCUA may differ from that of the SSA. Since NCUA does not release its code to FISCUs, the state's CAMEL code will be the only one the credit union receives. NCUA will explain any differences from an insurance perspective in the confidential section in accordance with regional policy.

The SSA examiner generally assigns CAMEL codes in FISCUs toward the end of an insurance review in a manner similar to the assignment of CAMEL codes in federal credit unions. All FISCUs rated a code 4 or 5 by NCUA must have proper regional management approval in accordance with the region's policies.

Joint Examination and Insurance Review Reports

Reporting differs in a joint examination/insurance review from a concurrent examination/insurance review. During a joint examination/insurance review, the SSA examiner and NCUA examiner issue a single combined report to the FISCU. In a concurrent examination/insurance review, the SSA examiner and the NCUA examiner issue separate reports to the credit union officials.

A goal exists of a single report encompassing both state and NCUA work. NCUA encourages examiners to jointly write the report and avoid duplication of effort during the examination. However, whether examiners issue a single report or two separate reports, the report or reports must address the concerns of both parties and document plans of action, developed with the credit union's officials and management, to correct noted deficiencies.

NCUA examiners should not take issue with SSA reporting practices merely because they differ from the standard NCUA examination report format. The overriding concern remains that the credit union officials receive sufficient direction to correct weaknesses and problems. The procedure to accomplish this is secondary to the effective communication of existing risks and necessary corrective action. NCUA and SSAs (with few exceptions) have adopted the AIRES examination program. Examiners may provide the credit union with additional workpapers needed to supplement specific areas of the examination.

Generally, the agreement enacted between each SSA and the respective regional office governs if, how, and when NCUA releases the examination report in that particular state. The region institutes procedures for performing regional office reviews and supervisory examiner appraisals of a joint examination/insurance review report.

The time required for reviewing and appraising the reports of joint examinations/insurance reviews varies from region to region. The regional offices have the option of performing insurance review due diligence reviews on a sample of the reports, rather than reviewing every report.

After completion of the examination/insurance review, the regional office sends the examination report to the appropriate SSA using either electronic or regular mail. NCUA's goal for reviewing the reports of joint examinations and insurance reviews is an average 30-day turnaround. Generally, the SSA's procedures dictate methods for transmitting the report.

Joint Conferences

SSAs' practices vary regarding the holding of joint conferences and exit interviews. Some SSAs hold joint conferences on select cases, and others after their office has reviewed the report. NCUA may meet with the officials at the conclusion of each joint examination/insurance review to discuss problems and seek agreements to resolve the problems. This occurs only after notification and review with the SSA, who must always have the opportunity to participate and to lead the meeting.

When the state holds a joint conference, the SSA examiner usually leads the meeting. NCUA attends and, jointly with the SSA, discusses all safety and soundness areas, and ensures adoption of appropriate plans of action. If the officials will not adopt the proposed plan, the SSA and NCUA obtain agreement that the credit union will develop alternative plans acceptable to both parties. Generally, the examiners should avoid duplicating issues unless previously agreed upon as a method of underscoring the importance of a particular concern to both the state and NCUA; however, fully airing the concerns of both parties must remain the overriding consideration.

The SSA examiner in charge should provide credit union management reasonable opportunity to respond to existing and potential problems following the joint conference. The SSA examiner in charge instructs the credit union to respond to all areas of concern raised by both the SSA and NCUA. Both the SSA and NCUA receive copies of any written response.

In rare instances, credit union officials do not concur with the examiner's recommendations for corrective action, even though a defined or potential loss exists that requires closer monitoring. The SSA and NCUA jointly outline a plan for corrective action, which contains procedures and timeframes for completion. The SSA should then ask the credit union to respond with their plans for carrying out the corrective actions, or to develop an alternative plan that will accomplish the same goals. In any case, the credit union remains responsible for correcting its safety and soundness weaknesses.

Supervision of FISCUs

Supervision is the ongoing monitoring of a credit union's financial and operational condition. As such, supervision involves not only review of areas of concern and the progress the credit union is making in correcting those problems, but supervision also looks forward at risk indicators, which may alert the examiner to emerging areas of risk. Responsibility for routine monitoring and supervision of FISCUs primarily rests with the SSA. When an NCUA examiner believes the credit union needs further supervision or monitoring, the examiner will discuss it with the SSA to determine what supervision or monitoring, if any, the credit union needs, and who will perform any supervision contacts, and when.

NCUA may, after consulting with the SSA, schedule independent onsite supervision to review the credit union's progress in accomplishing the corrective actions. NCUA will discuss with the SSA, in advance, any meetings scheduled with officials as a result of this review. The SSA or a representative may attend the meeting, if they so request.

Prompt Corrective Action

The Credit Union Membership Access Act (CUMAA) amendment to the FCU Act mandates a system of prompt corrective action (PCA) to restore the net worth of inadequately capitalized federally insured credit unions, and an alternative system of PCA for new credit unions that allows a reasonable time to build adequate levels of net worth. As a credit union's net worth continues to decline, the actions required of the credit union to restore its net worth ratio to an acceptable level become progressively more stringent.

The three main components of PCA include:

- A framework combining:
  - Mandatory supervisory actions (MSAs) prescribed by Congress and indexed to five statutory net worth categories, and
  - Discretionary supervisory actions (DSAs) developed by NCUA to enhance PCA when imposed;
- Alternative PCA requirements for credit unions defined by CUMAA as new; and
- Risk-based net worth (RBNW) requirement for applicable credit unions.

When a FISCU requires prompt corrective action, NCUA will notify and work cooperatively with the SSA for certain actions including the following:

- Lowering a net worth category resulting from a decline in the net worth ratio;
- Imposing any DSAs;
- Approving or disapproving of new, revised, or amended net worth restoration plans or revised business plans;
- Placing a FISCU into conservatorship or liquidation; and
- Approving a reduction in the earnings retention requirement.

The Prompt Corrective Action chapter contains more detailed information on this subject. Additionally, the written agreements between the SSA and region may address PCA and FISCUs.

Problem Credit Unions

NCUA's district examiners monitor most problem credit unions and, along with the SSA examiners, work with the credit unions to resolve problems. However, NCUA assigns to the regions' Divisions of Special Actions some problem credit unions, because of their size, complexity of problems, or degree of potential risk or loss to the NCUSIF. NCUA notifies the SSA when it assigns a FISCU to special actions. The NCUA Special Actions Problem Case Officers (PCOs) and the SSA attempt to arrange a mutually convenient date to commence joint onsite work. If the SSA PCO or examiner is unavailable, the NCUA PCO should arrange to meet with the SSA following the contact to review results and recommendations before meeting with the FISCU officials. The examiners should make efforts to eliminate multiple contacts and return trips.

NCUA and SSA examiners should work collectively to prepare a joint supervisory agreement, a Letter of Understanding and Agreement (LUA). NCUA and SSA examiners should work jointly with FISCUs to assist them in the development of Net Worth Restoration Plans (if required by PCA) to address the risks. These agreements should address insurance risk that threatens the credit union's viability and presents a significant risk to the NCUSIF. SSA and NCUA staff should maintain a professional demeanor with each other and the FISCUs at all times to avoid unnecessary distraction from insurance risks, safety and soundness issues, or other regulatory problems.

In FISCUs having serious operational or management problems that normal supervisory efforts have not, or cannot resolve, administrative actions represent the strongest supervisory tools available to NCUA and the SSA. The purpose of administrative actions is to prevent, alter, or eliminate serious operational problems in a credit union. They further protect the credit union, its members, its creditors, and the NCUSIF. NCUA consults with SSAs before taking any administrative action.

Before placing a FISCU in conservatorship or liquidation, NCUA will seek the views of the appropriate SSA and will give the SSA an opportunity to place the credit union in conservatorship or liquidation.

APPLICATION AND AGREEMENT FOR INSURANCE - APPENDIX 26A

Application and Agreements for Insurance of Accounts

TO: The National Credit Union Administration Board Date

The____Credit Union,

Insurance Certificate Number________________________(if applicable)

(Mailing Address)____________, _______(City)________(State)__(Zip Code)

applies for insurance of its accounts as provided in Title II of the Federal Credit Union Act, and in consideration of the granting of insurance, hereby agrees:

1. To permit and pay the cost of such examinations as the NCUA Board deems necessary for the protection of the interests of the National Credit Union Share Insurance Fund;

2. To permit the Board to have access to all records and information concerning the affairs of the credit union, including any information or report related to an examination made by or for any other regulating authority, and to furnish such records, information, and reports upon request of the NCUA Board;

3. To possess such fidelity coverage and such coverage against burglary, robbery, and other losses as is required by Parts 701.20 and 741 of NCUA's regulations;

4. To meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on federal credit unions by Section 116 of the Federal Credit Union Act and Parts 702 of NCUA's regulations, and to maintain such special reserves as the NCUA Board may by regulation or on a case-by-case basis determine are necessary to protect the interests of members. Any waivers of the statutory reserve or full and fair disclosure requirements or any direct charges to the statutory reserve other than loss loans must have the prior written approval of the NCUA Board. In addition, corporate credit unions shall be subject to the reserve requirements specified in Part 704 of NCUA's regulations;

5. Not to issue or have outstanding any account or security the form of which has not been approved by the NCUA Board, except accounts authorized by state law for state credit unions;

6. To maintain the deposit and pay the insurance premium charges imposed as a condition of insurance pursuant to Title II (Share Insurance) of the Federal Credit Union Act;

7. To comply with the requirements of Title II (Share Insurance) of the Federal Credit Union Act and of regulations prescribed by the NCUA Board pursuant thereto; and

8. For any investments other than loans to members and obligations or securities expressly authorized in Title I of the Federal Credit Union Act, as amended to establish now and maintain at the end of each accounting period and prior to payment of any dividend, an Investment Valuation Reserve Account in an amount at least equal to the net excess of book value over current market value of the investments. If the market value cannot be determined, an amount equal to the full book value will be established. When, as of the end of any dividend period, the amount in the Investment Valuation Reserve exceeds the difference

between book value and market value, the board of directors may authorize transfer of the excess to Undivided Earnings.

9. When a state-chartered credit union is permitted by state law to accept nonmember shares or deposits from sources other than other credit unions and public units, such nonmember accounts shall be identified as nonmember shares or deposits on any statement or report required by the NCUA Board for insurance purposes. Immediately after a state-chartered credit union receives notice from NCUA that its member accounts are federally insured, the credit union will advise any present nonmember share and deposit holders by letter that their accounts are not insured by the National Credit Union Share Insurance. Also, future nonmember share and deposit fund holders will be so advised by letter as they open accounts.

10. In the event a state-chartered credit union chooses to terminate its status as a federally insured credit union, then it shall meet the requirements imposed by Sections 206(a)(1) and 206(c) of the Federal Credit Union Act and Part 741.6 of NCUA's regulations.

11. In the event a state-chartered credit union chooses to convert from federal insurance to some other insurance from a corporation authorized and duly licensed to insure member accounts, then it shall meet the requirements imposed by Sections 206(a)(2), 206(c), 206(d)(2), and 206(d)(3) of the Federal Credit Union Act.

In support of this application, we submit pages 1-6 and Schedules described below:

Schedule No.	Title

Certifications and Resolutions
We, the undersigned, certify that we are duly elected and qualified presiding officer and recording officer of the credit union and that at a properly called regular or special meeting of its board of directors, at which a quorum was present, the following resolutions were passed and recorded in its minutes:

We, the undersigned, certify to the correctness of the information submitted.

Be it resolved that this credit union apply to the National Credit Union Administration Board for insurance of its accounts as provided in Title II of the Federal Credit Union Act.

Be it resolved that the presiding officer and recording officer be authorized and directed to execute the Application and Agreement for Insurance of Accounts as prescribed by the NCUA Board and any other papers and documents required in connection therewith and to pay all expenses and do all such other things necessary or proper to secure and continue in force such insurance.

We further certify that to the best of our knowledge and belief no existing or proposed officer, committee member, or employee of this credit union has been convicted of any criminal offense involving dishonesty or breach of trust, except as noted in attachments to this application. We further agree to notify the Board if any existing, proposed, or future officer, committee member, or employee is indicted for such an offense.

(Signature) Presiding Officer, Board of Directors	(Print or type Presiding Officer's Name)
(Signature) Recording Officer, Board of Directors	(Print or type Recording Officer's Name)