



BOARD ACTION MEMORANDUM

TO: NCUA Board
DATE: April 25, 2018
FROM: Office of General Counsel
SUBJ: Part 709 – Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation

ACTION REQUESTED: Board approval to publish a Final Rule to amend the NCUA’s regulation regarding involuntary liquidation and creditor claim procedures.

DATE ACTION REQUESTED: May 24, 2018.

OTHER OFFICES CONSULTED: None.

VIEWS OF OTHER OFFICES CONSULTED: N/A.

SUBMITTED TO INSPECTOR GENERAL FOR REVIEW: Yes.

RESPONSIBLE STAFF MEMBERS: Senior Trial Attorney Ian Marenga.

SUMMARY: On January 25, 2018, the Board issued a proposed rule with a 60-day comment period to amend the NCUA’s regulation on involuntary liquidation. In order to clarify how the NCUA’s golden parachute regulation applies to employee severance claims in involuntary liquidations, the Board proposed to amend the payout priority provision by specifying the conditions that severance claims must meet to be allowed as provable claims. The provision applies only to involuntary liquidations, which are infrequent.

The six commenters generally supported the proposed rule. One commenter asked the Board to extend the proposal to permit payment of separately-negotiated executive severance agreements, citing concerns about recruiting and retaining executives. The attached Final Rule declines to extend the proposal as requested. The amended provisions in Part 709 will enhance certainty and make severance claims allowable when they meet specific criteria applicable to all employees. Because the golden parachute regulation previously barred all severance claims, further extension of the exception set forth in the proposal is not recommended now. Accordingly, the attached Final Rule adopts the proposal without change.

RECOMMENDED ACTION: Recommend the Board approve publication of the Final Rule.

ATTACHMENT: Final Rule.