

once OMB action is taken on the submitted request.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope." The risk of loss to federally insured credit unions and the NCUSIF caused by actions of corporate credit unions are concerns of national scope. The proposed rule would help assure that proper safeguards are in place to ensure the safety and soundness of corporate credit unions.

The rule applies to all corporate credit unions that accept funds from federally insured credit unions. The NCUA Board believes that the protection of such credit unions, and ultimately the NCUSIF, warrants application of the proposed rule to non federally insured corporate credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined that this rule may have an occasional direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, the potential risk to the NCUSIF without these changes justifies them.

List of Subjects

12 CFR Part 704

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on April 13, 1995.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to amend 12 CFR chapter VII as follows:

1. Part 704 is revised to read as follows:

PART 704—CORPORATE CREDIT UNIONS

Sec.

704.1 Scope.

704.2 Definitions.

704.3 Planning; strategic and business plans.

704.4 Asset/liability management.

704.5 Investments.

704.6 Capital goals, objectives, and strategies.

704.7 Corporate Service Organizations (CSOs).

704.8 Lending.

704.9 Borrowing.

704.10 Services.

704.11 Fixed assets.

704.12 Corporate credit union reserves.

704.13 Representation.

704.14 Audit requirements.

704.15 Contracts/written agreements.

704.16 State-chartered corporate credit unions.

704.17 Fidelity bond coverage.

704.18 Effective date.

Appendix A to Part 704—Summary of Risk Weights and Risk Categories for Corporate Credit Unions

Appendix B to Part 704—Off-Balance Sheet Credit Conversion Factors

Appendix C to Part 704—Model Forms

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

§ 704.1 Scope.

(a) This part establishes special rules for all federally insured corporate credit unions. Non-federally insured corporate credit unions must agree, by written contract, to both adhere to the requirements of this part and submit to examinations, as determined by NCUA, as a condition of receiving shares or deposits from federally insured credit unions. This part grants certain additional authorities to federal corporate credit unions. Except to the extent that they are inconsistent with this part, other provisions of NCUA's Rules and Regulations (12 CFR Parts 700–795) and the Federal Credit Union Act apply to federally chartered corporate credit unions and federally insured state-chartered corporate credit unions to the same extent that they apply to other federally chartered and federally insured state-chartered credit unions, respectively.

(b) The NCUA Board has the authority to issue orders which vary from this Part. This authority is provided under Section 120(a) of the Federal Credit Union Act, 12 U.S.C. 1766(a). Requests by state-chartered corporate credit unions for waivers to this part must be approved by the state regulator before being submitted to NCUA.

§ 704.2 Definitions.

Adjusted trading means any method or transaction used to defer a loss whereby a corporate credit union sells a security to a vendor at a price above its current market price and simultaneously purchases or commits to purchase from the vendor another security at a price above its current market price.

Asset-backed securities (ABS) means all securities supported by installment loans or leases or by revolving lines of credit. This definition excludes those securities referred to in the financial markets as mortgage-backed securities (MBS) which includes collateralized mortgage obligations (CMOs) and real estate mortgage investment conduits (REMICs).

Average daily assets means the daily average of net assets calculated on the basis of assets at the close of each day in the period.

Average life means the weighted average time to principal repayment with the amount of the principal paydowns (both scheduled and unscheduled) as the weights.

Bailment for hire contract means a contract whereby a third party, bank, or other financial institution, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers.

Capital means the total of all primary capital and secondary capital share accounts upon which notice of withdrawal has not been given.

Cash forward agreement means an agreement to purchase or sell a security with delivery and acceptance being mandatory and at a future date in excess of thirty (30) days from the trade date.

Collateralized mortgage obligation (CMO) means a multi-class bond issue collateralized by whole loan mortgages or mortgage-backed securities (MBS).

Commitment means any unconditional arrangement that obligates a corporate credit union to extend credit in the form of loans; to purchase loans, securities or other assets; or to participate in loans and leases. Commitments also include overdraft facilities, revolving credit, home equity, and mortgage lines of credit, and similar transactions. An obligation is conditional if the corporate credit union is not automatically obligated to extend funds.

Corporate credit union means an organization that:

- (1) Is chartered under Federal or state law as a credit union;
- (2) Receives shares from and provides loan services to credit unions;
- (3) Is operated primarily for the purpose of serving other credit unions;
- (4) Is designated by NCUA as a corporate credit union;
- (5) Limits natural person members to the minimum required by state or federal law to charter and operate the credit union; and
- (6) Does not condition the eligibility of any credit union to become a member on that credit union's membership in any other organization.