

percent of the unimpaired capital and surplus of the purchaser. Student loans purchased in accordance with paragraph (b)(1)(iii) of this section, real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section, and eligible obligations purchased in accordance with paragraph (b)(1)(i) of this section that are refinanced by the purchaser so that they are loans it is empowered to grant shall not be included in considering this 5 percent limitation.

(c) *Sale.* A Federal credit union may sell, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with paragraph (b)(1)(ii) of this section, student loans purchased in accordance with paragraph (b)(1)(iii) of this section, and real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section, within the limitations of the board of directors' written sale policies, *Provided:*

(1) The board of directors or investment committee approves the sale; and

(2) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office.

(d) *Pledge.* (1) A Federal credit union may pledge, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with paragraph (b)(1)(ii) of this section, student loans purchased in accordance with paragraph (b)(1)(iii) of this section, and real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section, within the limitations of the board of directors' written pledge policies, *Provided:*

(i) The board of directors or investment committee approves the pledge;

(ii) Copies of the original loan documents are retained; and

(iii) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligations.

(2) The pledge agreement shall identify the eligible obligations covered by the agreement.

(e) *Servicing.* A Federal credit union may agree to service any eligible obligation it purchases or sells in whole or in part.

(f) *10 Percent limitation.* The total indebtedness owing to any Federal credit union by any person, inclusive of retained and reacquired interests, shall not exceed 10 percent of its unimpaired capital and surplus.

[44 FR 27071, May 9, 1979, as amended at 46 FR 38680, July 29, 1981. Redesignated at 49 FR 30688, Aug. 1, 1984, and amended at 53 FR 4844, Feb. 18, 1988; 56 FR 15036, Apr. 15, 1991; 56 FR 35811, July 29, 1991; 60 FR 58504, Nov. 28, 1995]

#### § 701.24 Refund of interest.

(a) The board of directors of a Federal credit union may authorize an interest refund to members who paid interest to the credit union during any dividend period and who are members of record at the close of business on the last day of such dividend period. Interest refunds may be made for a dividend period only if dividends on share accounts have been declared and paid for that period.

(b) The amount of interest refund to each member shall be determined as a percentage of the interest paid by the member. Such percentage may vary according to the type of extension of credit and the interest rate charged.

(c) The board of directors may exclude from an interest refund:

(1) A particular type of extension of credit;

(2) Any extension of credit made at a particular interest rate; and

(3) Any extension of credit that is presently delinquent or has been delinquent within the period for which the refund is being made.

[53 FR 19747, May 31, 1988]

#### § 701.25 [Reserved]

#### § 701.26 Credit union service contracts.

(a) A Federal credit union may act as a representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Agreements must be in writing, and shall advise all parties subject to the agreement that the goods and services provided shall

be subject to examination by the NCUA Board to the extent permitted by law.

(b) Where any agreement calls for, or requires, the payment in advance of the actual or estimated charges for more than 3 months such payment shall be deemed an investment in a credit union service organization and subject to the limitations delineated in sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

[47 FR 30462, July 14, 1982]

**§ 701.27 Investments in and loans to credit union service organizations.**

(a) *Scope.* Sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)) authorize Federal credit unions to invest in and make loans to credit union service organizations. This regulation implements those sections by addressing various issues, including monetary limits on loans and investments, the structure of credit union service organizations, their customer base, and the range of services and activities that they may provide. The regulation also establishes prudential standards for Federal credit union involvement with credit union service organizations, through provisions concerning conflicts of interest, accounting practices, and NCUA access to books and records. The regulation applies only in cases where one or more Federal credit unions have invested in or made loans to an organization pursuant to section 107(7)(I) or 107(5)(D). The regulation does not regulate credit union service organizations directly but rather establishes conditions of Federal credit union investments in and loans to such organizations.

(b) *Limits imposed by the Federal Credit Union Act.* (1) Section 107(7)(I) of the Act:

(i) Authorizes a Federal credit union to invest in shares, stock or obligations of credit union service organizations in amounts not exceeding, in the aggregate, 1% of the credit unions' paid-in and unimpaired capital and surplus;

(ii) Limits credit union service organizations to providing services associated with the routine operations of credit unions; and

(iii) Prohibits a Federal credit union from utilizing this authority to acquire control, directly or indirectly, of another financial institution, or to invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility, or other similar organization.

(2) Section 107(5)(D) of the Act:

(i) Authorizes a Federal credit union to make loans to credit union service organizations in amounts not exceeding, in the aggregate, 1% of its paid-in and unimpaired capital and surplus (this is independent of the 1% investment limit pursuant to section 107(7)(I));

(ii) Requires that credit union service organizations exist primarily to meet the needs of their member credit unions; and

(iii) Limits credit union service organizations to business relating to the daily operations of the credit unions they serve.

(c) *Definitions*—(1) *Affiliated credit unions* means those credit unions that have either invested in or made loans to a credit union service organization.

(2) *Official* means any director or committee member.

(3) *Immediate family member* means a spouse or other family members living in the same household.

(4) *Paid-in and unimpaired capital and surplus* means shares and undivided earnings.

(5) *Senior management employee* means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

(d) *Regulatory provisions*—(1) *Limits on funding.* A Federal credit union by itself, with other credit unions and/or with non-credit union parties, may invest in and/or loan to a credit union service organization. A Federal credit union's investments in credit union service organizations may not exceed, in the aggregate, 1% of the Federal credit union's paid-in and unimpaired capital and surplus as of its last calendar year-end financial report. A Federal credit union's loans to credit