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PART 563—SAVINGS ASSOCIATIONS—OPERATIONS

- 7. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831o, 3806; 42 U.S.C. 4106.

- 8. Revise the last sentence of the introductory paragraph of § 563.41(b) to read as follows:

§ 563.41 Transactions with affiliates.

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(b) * * * In addition, a savings association should read all references to “the Board” or “appropriate federal banking agency” to refer only to “OTS,” except for references at 12 CFR 223.2(a)(9)(iv), 223.3(h), 223.3(z), 223.14(c)(4), 223.43, and 223.55.

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§ 563.180 [Amended]

- 9. Amend § 563.180(c) by removing the last sentence.

PART 563g—SECURITIES OFFERINGS

- 10. The authority citation for part 563g continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78n, 78p, 78w.

§ 563g.1 [Amended]

- 11. In § 563g.1, amend paragraph (a)(6) by removing “Corporate and Securities Division” and by adding in lieu thereof “Business Transactions Division”; amend paragraph (a)(9) by removing “§ 563b.2(a)(27)” and adding in lieu thereof “§ 563b.25”; and amend paragraph (a)(10) by removing “§ 563b.2(a)(29)” and adding in lieu thereof “§ 563b.25”.

§ 563g.5 [Amended]

- 12. Amend § 563g.5(a) by removing the phrase “§ 563b.8(e)(1), (e)(3), and (e)(4), (f) through (q), and (s)” and adding in lieu thereof “§§ 563b.115(a), 563b.150(a)(6), 563b.155, 563b.180(b), and Form AC, General Instruction B”.

PART 575—MUTUAL HOLDING COMPANIES

- 13. The authority citation for part 575 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

§ 575.7 [Amended]

- 14. Amend § 575.7 by removing “12 CFR Form OC” in paragraph (d)(6)(i) and by adding in lieu thereof “Form OC”.

Dated: December 17, 2003.

By the Office of Thrift Supervision.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 03–31692 Filed 12–29–03; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 701****Organization and Operations of Federal Credit Unions**

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is updating and clarifying the definitions of certain terms used in NCUA’s loan participation rule. Specifically, the definition of “credit union organization” is amended to conform to the terms of the credit union service organizations (CUSOs) rule. Also, the definition of “financial organization” is broadened to provide federal credit unions (FCUs) greater flexibility in choosing appropriate loan participation partners.

DATES: This final rule is effective January 29, 2004.

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:**A. Background**

NCUA issued a proposed rule on June 26, 2003 to update and clarify § 701.22, its loan participation rule. 68 FR 39866 (July 3, 2003). In the proposal, NCUA noted many of the benefits loan participation offers FCUs. Specifically, engaging in loan participations is an effective tool for FCUs to manage liquidity and concentration risk. Loan participation is also a way for FCUs to comply with NCUA or self-imposed lending limits. Small FCUs are able to improve the diversification of their loan portfolios by participating in loans originated by larger FCUs that have the resources to underwrite a wider variety of loan types.

Section 701.22 of NCUA’s regulations provides that an FCU may engage in loan participations with “eligible organizations” and defines that term as a credit union, credit union organization, or financial organization. 12 CFR 701.22(b), 12 CFR 701.22(a)(2). The rule further defines “credit union organization” and “financial organization.” 12 CFR 701.22(a)(4) and (a)(5).

The Federal Credit Union Act (Act) defines “credit union organization” as “any organization as determined by the Board, which is established primarily to serve the needs of its member credit unions, and whose business relates to the daily operations of the credit unions they serve.” 12 U.S.C. 1757(5)(D). Section 701.22(a)(4) echoes this definition, but specifically excludes, among others, some CUSOs, which it describes as “corporations or other businesses which principally provide services to credit union members as opposed to corporations or businesses whose business relates to the daily in-house operation of credit unions.” 12 CFR 701.22(a)(4). Formerly, NCUA’s CUSO rule distinguished between CUSOs providing operational services to FCUs and those providing financial services to FCU members.

In a 1998 final rule, NCUA eliminated that distinction in the CUSO rule. 63 FR 10743 (March 5, 1998). Under NCUA’s regulations, CUSOs are entities that engage in providing products and services related to the routine daily operations of credit unions to credit unions and credit union members. 12 CFR 712.3, 712.5. In the June 2003 proposal, NCUA proposed to amend the definition of “credit union organization” in the loan participation rule to conform to NCUA’s interpretation of that term in the CUSO rule.

The Act does not define the term “financial organization.” Section 701.22(a)(5) defines it as “any federally chartered or federally insured financial institution.” 12 CFR 701.22(a)(5). Although the Act is silent, the rule derives its definition from the legislative history of the 1977 public law that granted FCUs various additional authorities, including the authority to engage in loan participations. H.R. Rep. No. 95–23, at 12 (1977), *reprinted* in 1977 U.S.C.C.A.N. 115. In granting this authority, Congress expressed its intent to enhance the ability of FCUs to serve their members’ loan demands.

Consistent with congressional intent to enhance the ability of FCUs to serve their members’ loan demands through participations, NCUA proposed to expand the regulatory definition of “financial organization” to include state and federal government agencies. NCUA is aware that there are various state and federal government supported loan programs that are particularly geared to underserved borrowers. These types of programs, which include agricultural and small business lending, are ideally suited to the mission of FCUs. Also, the proposal was intended to afford FCUs

greater flexibility in choosing appropriate participation partners.

B. Summary of Comments

NCUA received twelve comment letters regarding the proposed rule: three from FCUs, two from state credit unions, one from a corporate credit union, five from credit union trade organizations, and one from a banking trade organization. Nine commenters completely supported the proposal as written. One commenter supported the proposed amendment to the definition of "financial organization," but stated the current definition of "credit union organization" is sufficient to accomplish NCUA's goals. One commenter stated that there should be even fewer restrictions regarding the entities that may engage in loan participations than as proposed. The banking trade organization stated that NCUA's proposal exceeds congressional intent regarding who may engage in loan participations.

NCUA believes the proposed amendments improve the loan participation rule and strike an appropriate balance between enhancing flexibility for FCUs and adhering to statutory limitations. Accordingly, NCUA adopts the proposed amendments into the final rule without change.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions, defined as those under ten million dollars in assets. This rule expands the pool of eligible organizations with whom an FCU may engage in loan participations, without imposing any additional regulatory burden. The final amendments will not have a significant economic impact on a substantial number of small credit unions, and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles,

NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The final rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 701

Credit unions, Mortgages, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 18, 2003.
Becky Baker,
Secretary of the Board.

■ Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789 and Pub. L. 101-73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601-3610.

■ 2. Section 701.22 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 701.22 Loan participation.

(a) * * *

(4) *Credit union organization* means any credit union service organization meeting the requirements of part 712 of this chapter. This term does not include trade associations or membership organizations principally composed of credit unions.

(5) *Financial organization* means any federally chartered or federally insured financial institution; and any state or federal government agency and their subdivisions.

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[FR Doc. 03-31843 Filed 12-29-03; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

Share Insurance and Appendix

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its share insurance rules to simplify and clarify them and provide parity with the deposit insurance rules of the Federal Deposit Insurance Corporation (FDIC). Specifically, the amendments: Provide continuation of coverage following the death of a member and for separate coverage after the merger of insured credit unions for limited periods of time; clarify that the interests of nonqualifying beneficiaries of a revocable trust account are treated as the individually owned funds of the owner even where the owner has not actually opened an individual account; and clarify that there is coverage for Coverdell Education Savings Accounts, formerly Education IRAs.

DATES: This final rule is effective January 29, 2004.

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

A. Background

NCUA staff identified part 745 as a regulation in need of updating, clarification and simplification. To that end, NCUA issued a proposed rule on June 26, 2003 to improve part 745 and maintain parity between the separate federal insurance programs administered by NCUA and FDIC. 68 FR 39868 (July 3, 2003).

NCUA proposed to provide a six-month grace period for members to