

Pt. 747

Answer: Both accounts are fully insured. The trust account is separately insured from the individual account of S (§§ 745.3(a)(1) and 745.9-1).

Example 2

Question: S invests funds in trust for A, B, C, D, and E. A, B, and C are members of the credit union, D, E and S are not. What is the insurance coverage?

Answer: This is an uninsurable account. Where there is more than one settlor or more than one beneficiary, all the settlors or all the beneficiaries must be members to establish this type of account. Since D, E and S are not members, this account cannot legally be established or insured.

Example 3(a)

Question: Member S invests \$500,000 in trust for ABC Employees Retirement Fund. Some of the beneficiaries are members and some are not. What is the insurance coverage?

Answer: The account is insured as to the determinable interests of each member beneficiary to a maximum of \$100,000 per member. Member interests not capable of evaluation and nonmember interests shall be added together and insured to a maximum of \$100,000 in the aggregate (§ 745.9-1).

Example 3(b)

Question: Member S is trustee for the ABC Employees Retirement Fund containing \$1,000,000. Member A has a determinable interest of \$90,000 in the Fund (9% of the total). S invests \$500,000 of the Fund in trust in an insured credit union and the remaining \$500,000 elsewhere. Some of the beneficiaries of the Fund are members of the credit union and some are not. S does not segregate each employee's interest in the Fund. What is the insurance coverage?

Answer: The account is insured as to determinable interest of each member beneficiary, adjusted in proportion to the Fund's investment in the credit union. A's insured interest in the account is \$45,000, or 9% of \$500,000. This reflects the fact that only 50% of the Fund is in the account and A's interest in the account is in the same proportion as his interest in the overall plan. Each beneficiary who is a member would be similarly insured. Members' interests not capable of evaluation and nonmembers' interests are added together and insured to a maximum of \$100,000 in the aggregate. (§ 745.9-1.)

Example 4

Question: Member A has an individual account of \$100,000 and establishes an IRA and accumulates \$50,000 in that account. Subsequently A becomes self employed and establishes a Keogh account in the same credit

12 CFR Ch. VII (1-1-06 Edition)

union and accumulates \$100,000 in that account. What is the insurance coverage?

Answer: Each of A's accounts would be separately insured for up to \$100,000. In the example, A would be fully insured for \$250,000 (§ 745.3(a)(1) and § 745.9-2).

Example 5

Question: Member A has a self-directed IRA account with \$70,000 in it. The FCU is the trustee of the account. Member transfers \$40,000 into a blue chip stock; \$30,000 remains in the FCU. What is the insurance coverage?

Answer: Originally, the full \$70,000 in A's IRA account is insured. The \$40,000 is no longer insured once it is moved out of the FCU. The \$30,000 remaining in the FCU is insured (§ 745.9-2).

[51 FR 37560, Oct. 23, 1986, as amended at 53 FR 22473, June 16, 1988; 55 FR 47455, Nov. 14, 1990; 64 FR 19687, 19688, Apr. 22, 1999; 65 FR 34925, June 1, 2000; 68 FR 75114, Dec. 30, 2003; 69 FR 8801, Feb. 26, 2004]

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

Sec.

747.0 Scope of part 747.

Subpart A—Uniform Rules of Practice and Procedure

- 747.1 Scope.
- 747.2 Rules of construction.
- 747.3 Definitions.
- 747.4 Authority of NCUA Board.
- 747.5 Authority of the administrative law judge.
- 747.6 Appearance and practice in adjudicatory proceedings.
- 747.7 Good faith certification.
- 747.8 Conflicts of interest.
- 747.9 Ex parte communications.
- 747.10 Filing of papers.
- 747.11 Service of papers.
- 747.12 Construction of time limits.
- 747.13 Change of time limits.
- 747.14 Witness fees and expenses.
- 747.15 Opportunity for informal settlement.
- 747.16 NCUA's right to conduct examination.
- 747.17 Collateral attacks on adjudicatory proceeding.
- 747.18 Commencement of proceeding and contents of notice.
- 747.19 Answer.
- 747.20 Amended pleadings.
- 747.21 Failure to appear.
- 747.22 Consolidation and severance of actions.

National Credit Union Administration

Pt. 747

- 747.23 Motions.
- 747.24 Scope of document discovery.
- 747.25 Request for document discovery from parties.
- 747.26 Document subpoenas to nonparties.
- 747.27 Deposition of witness unavailable for hearing.
- 747.28 Interlocutory review.
- 747.29 Summary disposition.
- 747.30 Partial summary disposition.
- 747.31 Scheduling and prehearing conferences.
- 747.32 Prehearing submissions.
- 747.33 Public hearings.
- 747.34 Hearing subpoenas.
- 747.35 Conduct of hearings.
- 747.36 Evidence.
- 747.37 Post-hearing filings.
- 747.38 Recommended decision and filing of record.
- 747.39 Exceptions to recommended decision.
- 747.40 Review by the NCUA Board.
- 747.41 Stays pending judicial review.

Subpart B—Local Rules of Practice and Procedure

- 747.100 Discovery limitations.

Subpart C—Local Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

- 747.201 Scope.
- 747.202 Grounds for termination of insurance.
- 747.203 Notice of charges.
- 747.204 Notice of intention to terminate insured status.
- 747.205 Order terminating insured status.
- 747.206 Consent to termination of insured status.
- 747.207 Notice of termination of insured status.
- 747.208 Duties after termination.

Subpart D—Local Rules and Procedures Applicable to Suspensions and Prohibitions Where Felony Charged

- 747.301 Scope.
- 747.302 Rules of practice; remainder of board of directors.
- 747.303 Notice of suspension or prohibition.
- 747.304 Removal or permanent prohibition.
- 747.305 Effectiveness of suspension or removal until completion of hearing.
- 747.306 Notice of opportunity for hearing.
- 747.307 Hearing.
- 747.308 Waiver of hearing; failure to request hearing or review based on written submissions; failure to appear.
- 747.309 Decision of the NCUA Board.
- 747.310 Reconsideration by the NCUA Board.

- 747.311 Relevant considerations.

Subpart E—Local Rules and Procedures Applicable to Proceedings Relating to the Suspension or Revocation of Charters and to Involuntary Liquidations Under Title I

- 747.401 Scope.
- 747.402 Grounds for suspension or revocation of charter and for involuntary liquidation.
- 747.403 Notice of intent to suspend or revoke charter; notice of suspension.
- 747.404 Notice of hearing.
- 747.405 Issuance of order.
- 747.406 Cancellation of charter.

Subpart F—Local Rules and Procedures Applicable to Proceedings Relating to the Termination of Membership in the Central Liquidity Facility [Reserved]

Subpart G—Local Rules and Procedures Applicable to Recovery of Attorneys Fees and Other Expenses Under the Equal Access to Justice Act in NCUA Board Adjudications

- 747.601 Purpose and scope.
- 747.602 Eligibility of applicants.
- 747.603 Prevailing party.
- 747.604 Standards for award.
- 747.605 Allowable fees and expenses.
- 747.606 Contents of application.
- 747.607 Statement of net worth.
- 747.608 Documentation of fees and expenses.
- 747.609 Filing and service of applications.
- 747.610 Answer to application.
- 747.611 Comments by other parties.
- 747.612 Settlement.
- 747.613 Further proceedings.
- 747.614 Recommended decision.
- 747.615 Decision of the NCUA Board.
- 747.616 Payment of award

Subpart H—Local Rules and Procedures Applicable to Investigations

- 747.701 Applicability.
- 747.702 Information obtained in investigations.
- 747.703 Authority to conduct investigations.

Subpart I—Local Rules Applicable to Formal Investigative Proceedings

- 747.801 Applicability.
- 747.802 Non-public formal investigative proceedings.
- 747.803 Subpoenas.
- 747.804 Oath; false statements.
- 747.805 Self-incrimination; immunity.
- 747.806 Transcripts.

§ 747.0

747.807 Rights of witnesses.

Subpart J—Local Procedures and Standards Applicable to a Notice of Change in Senior Executive Officers, Directors of Committee Members Pursuant to Section 212 of the Act

747.901 Scope.
747.902 Grounds for disapproval of notice.
747.903 Procedures where notice of disapproval issued; reconsideration.
747.904 Appeal.
747.905 Judicial review.

Subpart K—Inflation Adjustment of Civil Monetary Penalties

747.1001 Adjustment of civil money penalties by the rate of inflation.

Subpart L—Issuance, Review and Enforcement of Orders Imposing Prompt Corrective Action

747.2001 Scope.
747.2002 Review of order imposing discretionary supervisory action.
747.2003 Review of order reclassifying a credit union on safety and soundness criteria.
747.2004 Review of order to dismiss a director or senior executive officer.
747.2005 Enforcement of orders.

AUTHORITY: 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787; 42 U.S.C. 4012a; Pub. L. 101-410; Pub. L. 104-134.

SOURCE: 56 FR 37767, Aug. 8, 1991, unless otherwise noted.

§ 747.0 Scope of part 747.

(a) This part describes the various formal and informal adjudicative actions and non-adjudicative proceedings available to the National Credit Union Administration Board (“NCUA Board”), the grounds for those actions and proceedings, and the procedures used in formal and informal hearings related to each available action. As mandated by section 916 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”) (12 U.S.C. 1818 note), this part incorporates uniform rules of practice and procedure governing formal adjudications generally, as well as proceedings involving cease-and-desist actions, assessment of civil money penalties, and removal, prohibition and suspension actions. In addition, the Uniform Rules are incorporated in

12 CFR Ch. VII (1-1-06 Edition)

other subparts of this part which provide for formal adjudications. The administrative actions and proceedings described herein, as well as the grounds and hearing procedures for each, are controlled by sections 120(b) (except where the Federal credit union is closed due to insolvency), 202(a)(3) and 206 of the Federal Credit Union Act (“the Act”), 12 U.S.C. 1766(b), 1782(a)(3), 1786. Should any provision of this part be inconsistent with these or any other provisions of the Act, as amended, the Act shall control. Judicial enforcement of any action or order described in this part, as well as judicial review thereof, shall be as prescribed under the Act (12 U.S.C. 1751 *et seq.*) and the Administrative Procedure Act (5 U.S.C. 500 *et seq.*).

(b) As used in this part, the term insured credit union means any Federal credit union or any state chartered credit union insured under subchapter II of the Act unless the context indicates otherwise.

[56 FR 37767, Aug. 8, 1991; 57 FR 523, Jan. 7, 1992]

Subpart A—Uniform Rules of Practice and Procedure

§ 747.1 Scope.

This subpart prescribes uniform rules of practice and procedure applicable to adjudicatory proceedings required to be conducted on the record after opportunity for a hearing under the following statutory provisions:

(a) Cease-and-desist proceedings under section 206(e) of the Act (12 U.S.C. 1786(e));

(b) Removal and prohibition proceedings under section 206(g) of the Act (12 U.S.C. 1786(g));

(c) Assessment of civil money penalties by the NCUA Board against institutions and institution-affiliated parties for any violation of:

(1) Section 202 of the Act (12 U.S.C. 1782);

(2) Section 1120 of FIRREA (12 U.S.C. 3349), or any order or regulation issued thereunder;

(3) The terms of any final or temporary order issued under section 206 of the Act or any written agreement executed by the National Credit Union Administration (“NCUA”), any condition