

National Credit Union Administration

§ 747.2001

principal place of business is located, or for the District of Columbia.

[56 FR 37767, Aug. 8, 1991; 57 FR 524, Jan. 7, 1992]

Subpart K—Inflation Adjustment of Civil Monetary Penalties

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

(a) NCUA is required by the Federal Civil Penalties Inflation Adjustment

Act of 1990 (Public Law 101-410, 104 Stat. 890, as amended (28 U.S.C. 2461 note)) to adjust the maximum amount of each civil money penalty within its jurisdiction by the rate of inflation. The following chart displays those adjustments, as calculated pursuant to the statute:

U.S. Code citation	CMP description	New maximum amount
(1) 12 U.S.C. 1782(a)(3)	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	\$22,000.
(2) 12 U.S.C. 1782(a)(3)	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	\$22,000.
(3) 12 U.S.C. 1782(a)(3)	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	\$1,175,000 or 1 percent of the total assets of the credit union, whichever is less.
(4) 12 U.S.C. 1782(d)(2)(A)	First tier	\$2,200.
(5) 12 U.S.C. 1782(d)(2)(B)	Second tier	\$22,000.
(6) 12 U.S.C. 1782(d)(2)(C)	Third tier	\$1,175,000 or 1 percent of the total assets of the credit union, whichever is less.
(7) 12 U.S.C. 1785(e)(3)	Non-compliance with NCUA security regulations.	\$110.
(8) 12 U.S.C. 1786(k)(2)(A)	First tier	\$6,500.
(9) 12 U.S.C. 1786(k)(2)(B)	Second tier	\$32,500.
(10) 12 U.S.C. 1786(k)(2)(C)	Third tier	For a person other than an insured credit union: \$1,250,000; For an insured credit union \$1,250,000 or 1 percent of the total assets of the credit union, whichever is less.
(11) 42 U.S.C. 4012a(f)	Per violation	\$385
	Per calendar year	\$120,000.

(b) The adjustments displayed in paragraph (a) of this section apply to acts occurring beginning on November 1, 2004.

[69 FR 60080, Oct. 7, 2004]

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

SOURCE: 65 FR 8594, Feb. 18, 2000, unless otherwise noted.

§ 747.2001 Scope.

(a) *Independent review process.* The rules and procedures set forth in this subpart apply to federally-insured credit unions, whether federally- or state-chartered (other than corporate credit unions), which are subject to discretionary supervisory actions under part 702 of this chapter, and to reclassifica-

tion under §§ 702.102(b) and 702.302(d) of this chapter, to facilitate prompt corrective action under section 216 of the Federal Credit Union Act, 12 U.S.C. 1790d; and to senior executive officers and directors of such credit unions who are dismissed pursuant to a discretionary supervisory action imposed under part 702. NCUA staff decisions to impose discretionary supervisory actions under part 702 shall be considered material supervisory determinations for purposes of 12 U.S.C. 1790d(k). Section 747.2002 of this subpart provides an independent appellate process to challenge such decisions.

(b) *Notice to State officials.* With respect to a federally-insured State-chartered credit union under §§ 747.2002, 747.2003 and 747.2004 of this subpart, notices, directives and decisions on appeal served upon a credit union, or a dismissed director or officer thereof, by

the NCUA Board shall also be served upon the appropriate State official. Responses, requests for a hearing and to present witnesses, requests to modify or rescind a discretionary supervisory action and requests for reinstatement served upon the NCUA Board by a credit union, or dismissed director or officer thereof, shall also be served upon the appropriate State official.

§ 747.2002 Review of orders imposing discretionary supervisory action.

(a) *Notice of intent to issue directive—*
(1) *Generally.* Whenever the NCUA Board intends to issue a directive imposing a discretionary supervisory action under §§ 702.202(b), 702.203(b) and 702.204(b) of this chapter on a credit union classified “undercapitalized” or lower, or under §§ 702.304(b) or 702.305(b) of this chapter on a new credit union classified “moderately capitalized” or lower, it must give the credit union prior notice of the proposed action and an opportunity to respond.

(2) *Immediate issuance of directive without notice.* The NCUA Board may issue a directive to take effect immediately under paragraph (a)(1) of this section without notice to the credit union if the NCUA Board finds it necessary in order to carry out the purposes of part 702 of this chapter. A credit union that is subject to a directive which takes effect immediately may appeal the directive in writing to the NCUA Board. Such an appeal must be received by the NCUA Board within 14 calendar days after the directive was issued, unless the NCUA Board permits a longer period. Unless ordered by the NCUA Board, the directive shall remain in effect pending a decision on the appeal. The NCUA Board shall consider any such appeal, if timely filed, within 60 calendar days of receiving it.

(b) *Contents of notice.* The NCUA Board’s notice to a credit union of its intention to issue a directive imposing a discretionary supervisory action must state:

(1) The credit union’s net worth ratio and net worth category classification;

(2) The specific restrictions or requirements that the NCUA Board intends to impose, and the reasons therefor;

(3) The proposed date when the discretionary supervisory action would take effect and the proposed date for completing the required action or terminating the action; and

(4) That a credit union must file a written response to a notice within 14 calendar days from the date of the notice, or within such shorter period as the NCUA Board determines is appropriate in light of the financial condition of the credit union or other relevant circumstances.

(c) *Contents of response to notice.* A credit union’s response to a notice under paragraph (b) of this section must:

(1) Explain why it contends that the proposed discretionary supervisory action is not an appropriate exercise of discretion under this part;

(2) Request the NCUA Board to modify or to not issue the proposed directive;

(3) Include other relevant information, mitigating circumstances, documentation, or other evidence in support of the credit union’s position regarding the proposed directive; and

(4) If desired, request the recommendation of NCUA’s ombudsman pursuant to paragraph (g) of this section.

(d) *NCUA Board consideration of response.* The NCUA Board, or an independent person designated by the NCUA Board to act on its behalf, after considering a response under paragraph (c) of this section, may:

(1) Issue the directive as originally proposed or as modified;

(2) Determine not to issue the directive and to so notify the credit union; or

(3) Seek additional information or clarification from the credit union or any other relevant source.

(e) *Failure to file response.* A credit union which fails to file a written response to a notice of the NCUA Board’s intention to issue a directive imposing a discretionary supervisory action, within the specified time period, shall be deemed to have waived the opportunity to respond, and to have consented to the issuance of the directive.

(f) *Request to modify or rescind directive.* A credit union that is subject to