

---

# TRUTH IN SAVINGS ACT

## (NCUA RULES AND REGULATIONS PART 707)

### OVERVIEW

---

#### Overview

The Truth in Savings Act (TISA), implemented by Part 707 of NCUA's Rules and Regulations, covers deposit accounts held by members at credit unions. The regulation requires that credit unions provide members with uniform disclosures about fees, interest rates, annual percentage yields (APY), and other terms of deposit accounts. The disclosures enable a member to make meaningful comparisons of deposit products among financial institutions.

Accounts include share and deposit accounts such as shares, share drafts, and term share (certificate) accounts held by, or offered to, a natural person member or potential member primarily for a personal, family or household purpose.

Credit unions must provide members or potential members with account disclosure information:

- Before an account is opened or a service is provided, whichever is earlier;
- Upon request;
- When the terms change (with a few exceptions), if the change adversely affects the member;
- On most term share accounts that renew or mature (depending on maturity date);
- On periodic statements; and
- On advertisements.

The regulation also imposes substantive requirements on the method of calculating interest in order to ensure that interest is paid on the full principal balance for each calculation period. Finally, the regulation contains detailed rules covering the advertising of deposit accounts by credit unions.

#### Coverage [§ 707.1(c)]

Part 707 applies to all credit unions whose accounts are either insured by, or eligible to be insured by, the National Credit Union Share Insurance Fund. It does not apply to corporate credit unions and credit unions that have \$2 million or less in assets, after subtracting any nonmember deposits, and are determined to be non-automated. In addition, the advertising rules in § 707.8 apply to any person who advertises an account

offered by a credit union, including any person who solicits any amount from any other person for placement in a credit union.

## **Payment of Dividends**

### Payment of Dividends [§ 707.7]

On dividend and interest-bearing accounts, Part 707 requires credit unions to pay dividends or interest based on the full amount of principal in an account once the member meets the minimum balance to earn dividends.

The dividend rate is the annual rate the credit union pays on an account (not reflecting compounding.) When a credit union pays dividends, it applies a periodic dividend rate to an account balance. Dividends do not include the absorption of expenses, forbearance in charging fees, non-dividend membership benefits, extraordinary dividends, or the payment of bonuses. If a credit union chooses to pay dividends for the use of funds, Part 707 mandates:

- Each day the credit union must pay dividends equal to at least  $1/365$  (or  $1/366$  in a leap year) of the dividend rate on the full amount of principal in the account. A credit union may apply a daily periodic rate greater than  $1/365$  of the dividend rate (e.g., a daily periodic rate of  $1/360$ ) as long as the credit union applies that rate 365 days a year;
- The credit union must calculate the account balance on which it pays dividends using either:
  - (a) The daily balance method, which applies a daily periodic rate to the full amount of principal in the account every day; or
  - (b) The average daily balance method, which applies a periodic rate to the average daily balance (the sum of the full amount of principal in the account for each day of the period, divided by the number of days in the period);
- Credit unions with a minimum balance requirement to earn dividends may choose not to pay a dividend for those days when balances fall below the required minimum. Credit unions using the average daily balance method may choose not to pay a dividend if the average balance for the period falls below the minimum. If a credit union imposes a minimum balance to earn a dividend, it must use the same calculation method to determine whether the member meets the minimum balance as it uses to calculate dividends. If members would benefit, the credit union can use an additional method to determine if the members meet the minimum balance requirement;
- Credit unions must choose how often they will compound and credit dividends. If previously disclosed in writing, credit unions may require members that close accounts between crediting dates to forfeit accrued but uncredited dividends; and

- Dividends begin to accrue not later than the business day the funds are deposited in an account, unless the credit union provides notice of a later time in its policy disclosures under §606 of the Expedited Funds Availability Act and Regulation CC. Once started, dividends must continue to accrue until the member withdraws the funds. However, a credit union need not pay dividends (1) during a grace period for automatically renewable term share accounts if the member decides during the grace period not to renew the account, or (2) after a nonautomatically renewable term share account matures.

A term share account is a share certificate, interest-bearing certificate of deposit account, or other account (e.g., club account) with a maturity of at least seven days, and members generally may not make withdrawals for six days after opening the account unless an early withdrawal penalty of at least seven days' dividends on the amounts withdrawn exists.

## **Oral Responses to Inquiries**

### Oral Responses to Inquiries [§ 707.3(e)]

In an oral response to a member or potential member's inquiry about dividend rates payable on its accounts, the credit union must state the annual percentage yield. The dividend rate may be stated in addition to the annual percentage yield. No other rate may be stated. In stating a dividend rate and annual percentage yield, a credit union must:

- For dividend-bearing accounts other than term share accounts, specify a dividend rate and annual percentage yield as of the last dividend declaration date. In the event that disclosures of a dividend rate and annual percentage yield as of the last dividend declaration date might be inaccurate because of known or contemplated dividend rate changes, the credit union may disclose the prospective dividend rate and prospective annual percentage yield. Such prospective dividend rate and prospective annual percentage yield may be disclosed either in lieu of, or in addition to, the dividend rate and annual percentage yield as of the last dividend declaration date.
- For interest-bearing accounts and for dividend-bearing term share accounts, specify an interest (dividend) rate and annual percentage yield that were offered within the most recent seven calendar days; state that the rate and yield are accurate as of an identified date; and provide a telephone number members may call to obtain current rate information.

## **Associated Risks**

Compliance risk can occur when the credit union fails to implement the necessary controls to comply with TISA and Part 707.

Reputation risk can occur when the credit union incurs fines and penalties as a result of failure to comply with TISA and Part 707.

Strategic risk can occur when the board of directors fails to perform necessary due diligence in reviewing existing and prospective products and services for compliance with TISA and Part 707.

### **Additional Information**

A copy of the Rules and Regulations is available on NCUA's website at <http://www.ncua.gov/> in the Reference Information section.

---

**TRUTH IN SAVINGS ACT**  
**(NCUA RULES AND REGULATIONS PART 707)**  
**OPERATIONAL REQUIREMENTS**

---

**Disclosures / Notices**

General Disclosure [§ 707.3]

Account disclosures, containing the information required by § 707.4(b), must be provided to members before an account is opened or a service provided, whichever occurs first. The disclosures are required to be mailed or delivered no later than 10 business days after an account is opened (or a service provided) if the member is not present at such time. Account disclosures must also be provided to members on request; if the member is not present, the disclosures must be mailed or delivered within a reasonable time after the request is made.

The written account disclosures must reflect the legal obligation between the parties, contain clear and conspicuous information so that members may readily understand the terms of their accounts, and present the information in a form that the member or potential member can permanently retain. Credit unions may deliver periodic statement disclosures in electronic form if the member agrees to this form of delivery. A credit union may have a separate disclosure for each account or it may combine Part 707 disclosures for several accounts in a single document, such as a brochure for all savings accounts.

Credit unions must use the following specific terminology for Part 707:

- “Annual percentage yield” (APY) in account disclosures and advertisements;
- “Dividend rate” in account disclosures and advertisements (credit unions may also use “annual percentage rate” in account disclosures in addition to the term “dividend rate”); and
- “Annual percentage yield earned” (APYE) on periodic statements.

The credit union must show APY and APYE to two decimal places and rounded to the nearest one-hundredth of one percent (.01%). The same rule applies to dividend rates, except that account disclosures may show the dividend rate at more than two decimals.

Part 707 considers the APY or APYE accurate if it is within 1/20 of one percentage point (.05%) above or below the actual percentage yield as determined in Appendix A of Part 707. Credit unions may not intentionally incorporate the tolerance as part of their calculations. There is no corresponding tolerance for the accuracy of the dividend rate; it must be precise.

Credit unions must disclose the following information in account disclosures (as applicable):

- Rate information:
  - (a) APYs and dividend rates using the terms "annual percentage yield" and "dividend rate" (credit unions may disclose a periodic rate corresponding to the dividend rate);
  - (b) Time period the dividend rate will remain in effect after a member opens a fixed-rate account;
  - (c) Each dividend rate, along with corresponding APYs for each specified balance level for tiered-rate accounts;
  - (d) A single composite APY, all dividend rates, and period of time the rate will be in effect for each step for stepped-rate accounts (has two or more dividend rates that take effect in succeeding periods and are known at account opening); and
  - (e) Information on variable-rate accounts (those where the dividend rate may change after the member opens the account, unless the credit union contracts to give at least 30 calendar days advance written notice of rate decreases.) The credit union must disclose the following information:
    - (1) A statement that the dividend rate and APY may change;
    - (2) The method by which the credit union determines the dividend rate. If the credit union reserves the right to change rates and does not tie changes to an index, it must disclose that rate changes are within the credit union's discretion;
    - (3) Limitations on the amount the dividend rate may change; and
    - (4) The frequency with which the dividend rate may change. Credit unions that reserve the right to change rates at any time must state that fact.
- Compounding and crediting information:
  - (a) The frequency with which the credit union compounds and credits dividends (e.g., daily, monthly, quarterly, etc.);
  - (b) The dividend period (for dividend-bearing accounts); and
  - (c) The effect of closing an account when the account contract provides that the credit union will not pay accrued but uncredited dividends if the member closes the account before the credit union credits the dividends.
- Balance information:
  - (a) Any minimum balance requirements to:
    - (1) Open an account;
    - (2) Avoid the imposition of fees; or
    - (3) Obtain the APY.

(A credit union must also state how it determines account balances for these purposes.)

- (b) The balance computation method (i.e., the daily or average daily balance method) used to calculate dividends on the account;
  - (c) The par value of a share necessary to become a member and maintain accounts at the credit union; and
  - (d) When dividends begin to accrue on non-cash deposits.
- Fee information (amounts and types of all fees that may be assessed), including:
    - (a) Maintenance fees;
    - (b) Fees related to deposits or withdrawals, whether by check or electronic transfer;
    - (c) Fees for special account services (credit unions need not disclose fees for services unrelated to accounts, e.g., money order fees, traveler check fees, etc.); and
    - (d) Fees to open or close accounts.
  - Transaction information including:
    - (a) Limitations on the number or dollar amount of deposits to, withdrawals from, or checks written on an account for any time period.
  - Term share information:
    - (a) Time requirements including the term (for generic disclosure requests), otherwise, the credit union must state the maturity date;
    - (b) Early withdrawal penalties including how the credit union calculates them and the conditions under which it assesses them;
    - (c) Withdrawal of dividends prior to maturity requirements (i.e., on a term share account that compounds dividends, if a member may withdraw accrued dividends prior to maturity, the credit union must disclose the resulting reduction in account earnings.) The APY assumes that dividends remain in the account until maturity. Credit unions that do not compound dividends on an annual or more frequent basis, and that require the dividend payouts at least annually, and that disclose the APY in accordance with Section E of Appendix A, must state that dividends cannot remain on account and that payout of dividends is mandatory; and
    - (d) Renewal policies including:
      - (1) Whether a term share account automatically renews at maturity; and
      - (2) Whether the credit union provides a grace period and, if so, its length. For nonautomatically renewable term share accounts, a credit union must disclose whether it will pay dividends after maturity if the member does not renew the account.
  - Bonus information:

- (a) The amount and type of bonuses the credit union offers;
  - (b) The timeframe in which the credit union will pay the bonus; and
  - (c) The minimum balance or time requirements necessary to obtain the bonus.
- Nature of Dividends (i.e., credit union pays dividends at the end of a dividend period from current income and available earnings after required reserve transfers.) Credit unions need not make this dividend statement for dividend-bearing term share accounts or interest-bearing accounts. However, if the credit union requires a member to open a share account in order to open a dividend-bearing term share or interest-bearing account, the credit union must disclose the "nature of dividends" for the share account. The credit union need not make the disclosure in advertising and oral responses to rate inquiries.

#### Subsequent Disclosures for Changes in Terms [§ 707.5]

Advance notice must be provided to affected members concerning changes in account terms or the APY that adversely affect the member. The notice is required to be mailed or delivered at least 30 calendar days before the effective date of the change and should include the effective date of the change.

- Change in terms
  - (a) Advance notice required. A credit union must give advance notice to affected members of any change in a term required to be disclosed under § 707.4(b) of this part if the change may reduce the annual percentage yield or adversely affect the member. The notice must include the effective date of the change. The notice must be mailed or delivered at least 30 calendar days before the effective date of the change.
  - (b) No notice under this section is required for:
    - (1) Changes in the interest rate and corresponding changes in the annual percentage yield in variable-rate accounts.
    - (2) Changes in fees assessed for check printing.
    - (3) Changes in any term for time accounts with maturities of one month or less.
- Credit unions shall provide the disclosures described below before maturity for term share accounts with maturities longer than one month that renew automatically at maturity. The disclosures must be mailed or delivered at least 30 calendar days before maturity of the existing account. Alternatively, the disclosures may be mailed or delivered at least 20 calendar days before the end of the grace period on the existing account, provided a grace period of at least five calendar days is allowed.
- Notice before maturity for term share accounts longer than one year that do not renew automatically. For time accounts with a maturity longer than one year that do not renew automatically at maturity, credit unions must disclose to members the maturity

date and whether interest will be paid after maturity. The disclosures must be mailed or delivered at least 10 calendar days before maturity of the existing account.

#### Notices of Maturity of Term Share Account [§ 707.5(b) and (c)]

Credit unions must provide notice of maturity of the following types of term share accounts:

- For term share accounts with a maturity longer than one month that renew automatically, the notice must be mailed or delivered at least 30 calendar days before maturity (or at least 20 calendar days before the end of a grace period lasting at least 5 calendar days). The content of the notice must meet the requirements described in § 707.5(b).
- For term share accounts with a maturity of one year or less but longer than one month, the credit union shall either:
  1. Provide disclosures as noted in the “longer than one month” bullet above; or
  2. Disclose to the member:
    - The date the account matures and the new maturity date if the account is renewed;
    - The dividend rate and the APY for the new account if they are known; and
    - Any difference in the terms of the new account.
- For term share accounts with a maturity of longer than one year that do not renew automatically, the notice must be mailed or delivered at least 10 calendar days before maturity. The content of the notice must meet the requirements of § 707.5(c).

#### Periodic Statements [§ 707.6]

- If a credit union provides a periodic statement in connection with an account, the statement must include the following disclosures:
  - (a) Annual percentage yield earned. The “annual percentage yield earned” during the statement period, using that term; and
  - (b) Amount of interest. The dollar amount of dividends earned (accrued or paid and credited) during the statement period; and
  - (c) Fees imposed. Fees required to be disclosed under § 707.4(b)(4) of this part that were debited to the account during the statement period. The fees must be itemized by type and dollar amounts; and
  - (d) Length of period. The total number of days in the statement period, or the beginning and ending dates of the period.

- Special rule for average daily balance method. In making the disclosures described above, credit unions that use the average daily balance method and calculate dividends for a period other than the statement period may calculate and disclose the annual percentage yield earned and amount of dividends earned based on that period rather than the statement period. The information required above must be stated for that period as well as for the statement period.

## **Recordkeeping**

### Record Retention [§ 707.9]

Credit unions must retain records of compliance with Part 707 for a minimum of two years after the date disclosures are required to be made or action is required to be taken. Although they need not retain a copy of each disclosure, credit unions desiring to establish compliance should establish and maintain procedures for paying dividends and providing the various disclosures and retain sample disclosures for the types of accounts offered. Credit unions must keep sufficient rate and balance information to enable examiners to verify dividends paid on the account.

## **Advertising**

### Advertising Requirements [§ 707.8]

Advertisements, defined as commercial messages in any medium that directly or indirectly promote the availability of, or a deposit in, an account, must meet certain regulatory requirements. Specifically, an advertisement: (i) may not be misleading or inaccurate; (ii) if it states a rate of return, it must state the rate of return as an APY; (iii) must include additional disclosures if APY is stated; (iv) must provide additional information if a bonus is stated; and (v) may utilize abbreviated disclosure rules if advertisement is made through certain types of media. In addition, the word “profit” may not be used in referring to interest paid on an account, and advertisements are not permitted to refer to or describe an account as “free” or “no cost” if any maintenance or activity fee may be imposed on the account.

Since credit unions usually consider automated teller machines (ATMs) a service that does not require a user to open or maintain an account, ATM fees associated with such accounts would not restrict a credit union from advertising the accounts as "free". Credit unions may advertise free transactions at ATMs as "free"; however, the credit unions must disclose time limits placed on a free service.

Credit unions must provide the following additional disclosure information if they state the APY in an advertisement:

- Variable rates – a statement that the rate may change after account opening;
- Time period - how long the credit union will offer advertised APYs (e.g., "from March 7 through March 13" or "annual percentage yield effective as of March 7");

- Accuracy of APY - for dividend-bearing accounts other than term share accounts, a statement that APY is accurate as of the last declaration date or, if inaccurate, the prospective APY;
- Minimum balance – the minimum balance required to obtain the advertised APY;
- Minimum opening deposit – the minimum deposit required to open the account;
- Fees - a statement that fees could reduce earnings on the account;
- Features of term share accounts – a statement specifying the term (e.g., three months) and early withdrawal penalties;
- Advertisement - if an advertisement for a noncompounding multi-year account that requires dividend payouts at least annually states an APY, then it must state that dividend payouts are mandatory and cannot remain in the account;
- Tiered-rate accounts – a statement of all APYs (including APY ranges), all dividend rates, and any minimum balance required to obtain the APYs for each tier;
- Stepped-rate accounts – a statement of all dividend rates and the time period for each; and
- Bonus - if a bonus is displayed in an advertisement, it must disclose the following:
  - (a) The APY;
  - (b) Time restrictions to obtain the bonus;
  - (c) When the credit union will provide the bonus; and
  - (d) Required minimum balance to open the account, if it is greater than the minimum balance necessary to obtain the bonus.

#### Exemptions from Advertising Requirements [§ 707.8(e)]

NCUA's Rules and Regulations permit abbreviated disclosure requirements for advertisements made through:

- Broadcast or electronic media (such as radio and television);
- Outdoor media (billboards);
- Telephone response machines;
- Indoor signs; and
- Newsletters distributed only to existing members.

If the credit union discloses a rate of return or bonus on one of the first three media listed above, the advertisement need not contain information concerning:

- Variable rates;
- Time the annual percentage yield is offered;
- Minimum opening deposit;
- Effect of fees;
- Early withdrawal penalties for term share accounts;
- Minimum balance required to open the account, if it is greater than the minimum balance necessary to obtain the bonus; and
- When the bonus will be provided.

Credit union newsletters are exempt from many of the advertising requirements if the credit union distributes the newsletter to existing members only and does not intend it as a promotional piece for potential members. Exercising care to reach only existing members demonstrates compliance with the requirement for the exemption (e.g., credit unions should not leave newsletters in the lunch room of the sponsor.)

If the credit union discloses a rate of return on an indoor sign or sends a newsletter to existing members only, the advertising requirements specify that the sign or newsletter must:

- State the rate as an “annual percentage yield”, using that term or the term “APY”; and
- Contain a statement advising members to contact an employee for further information about applicable fees and terms.

## **Enforcement / Liability**

### Administrative enforcement [§ 707.9(a)]

Section 270 of TISA (12 U.S.C. 4309) contains the provisions relating to administrative sanctions for failure to comply with the requirements of TISA and Part 707.

Compliance with the requirements imposed on credit unions under this subtitle shall be enforced by the National Credit Union Administration.

### Civil Liability [§ 707.9(b)]

The civil liability provisions of the Truth in Savings Act were repealed effective September 30, 2001.