

List of Subjects in 12 CFR Part 701

Credit unions, Mortgages, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on June 26, 2003.

Becky Baker,

Secretary of the Board.

For the reasons stated above, NCUA proposes to amend 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 P.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: (i) Any federally chartered or federally insured financial institution; and

(ii) Any state or federal government agency and their subdivisions.

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NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 745****Share Insurance and Appendix**

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: NCUA proposes to amend its share insurance rules. The amendments simplify and clarify these rules and provide parity with the deposit insurance rules of the Federal Deposit Insurance Corporation (FDIC). Specifically, the amendments: clarify how revocable trust accounts are established and insured; 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; and clarify that there is coverage for Coverdell Education Savings Accounts, formerly Education IRAs.

DATES: Comments must be received on or before September 2, 2003.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. You are encouraged to fax comments to (703) 518-6319 or email comments to regcomments@ncua.gov instead of mailing or hand-delivering them. Whatever method you choose, *please send comments by one method only.*

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**

In accordance with NCUA's regulatory review process, NCUA staff has identified part 745 as a regulation in need of updating, clarification and simplification. To that end, NCUA is proposing the below amendments to improve part 745 and to maintain parity between the separate federal insurance programs administered by NCUA and FDIC.

B. Proposed Amendments*Revocable Trust Accounts*

A revocable trust account is a testamentary account that evidences the owner's intent to have funds in the account pass to named beneficiaries upon the owner's death. NCUA is increasingly receiving inquiries from credit unions and credit union members regarding three aspects of revocable trust accounts. Specifically, these inquiries concern how: (1) Revocable trusts are created; (2) an owner demonstrates testamentary intent; and (3) the interests of nonqualifying beneficiaries are treated.

Unlike more complicated trusts such as living trusts, which require formal, often complex, written trust documents, simple revocable trusts can be created at the credit union merely by indicating that intent in the title to an account. Common terms used in the account title to create a revocable trust and indicate the owner's intent include "payable on death", "in trust for", and "as trustee for", or acronyms for these phrases, respectively, POD, ITF and ATF. For example, the account title "John Smith

POD to Mary Smith" is sufficient to create a revocable trust account. Although not preferable, the account title "John Smith POD" is also sufficient to create a revocable trust account. To be insurable as a revocable trust account, however, the beneficiaries must be specifically named in the credit union's account records. NCUA believes that naming the beneficiaries in the account title is the most effective way of establishing insurance coverage.

NCUA's share insurance rules provide that an owner's funds in a revocable trust account are separately insured up to \$100,000 for each qualifying beneficiary named in the account. 12 CFR 745.4. A qualifying beneficiary is the owner's spouse, child, grandchild, parent, brother or sister. *Id.* All others are nonqualifying beneficiaries.

NCUA treats the interests of nonqualifying beneficiaries named in the revocable trust account as the individually owned funds of the owner of the account. In this context, these funds would be aggregated with all other individual accounts of the owner and insured up to \$100,000. The current language of § 745.4(c) could be read as providing that these nonqualifying beneficiary interests will only be insured as the individually owned funds of the owner if the owner has actually opened an individual account in the insured credit union where the revocable trust account is held. 12 CFR 745.4(c). NCUA proposes to revise that section to make clear that it will treat nonqualifying beneficiary interests as the individually owned funds of the owner even where the owner has not actually opened an individual account at the credit union. This is consistent with FDIC's treatment of these funds.

Insurance Coverage Following the Death of a Member

The death of a member results in an immediate change in the ownership of the member's share accounts. This change in ownership could significantly change the amount of share insurance coverage available for those accounts, most likely reducing coverage.

For example, a husband and wife may hold a joint account, a joint revocable trust account for the benefit of their two children, and two individual accounts in their own names. Assuming these accounts satisfy all applicable requirements, these four accounts would be insured up to a maximum of \$800,000. The \$800,000 is broken down as follows: \$200,000 for the joint account; \$400,000 for the joint revocable trust account; and \$100,000 for each of the two individual accounts. Upon the death of either the husband or wife,

however, the surviving spouse would become the sole owner of the joint account and the joint revocable trust account. Under NCUA share insurance rules, the joint account would be transformed into an individual account subject to aggregation with the surviving spouse's other individual account and insured up to a maximum of \$100,000. The single ownership (individual) account in the name of the deceased spouse would continue to be insured separately from the other accounts. The maximum coverage of the joint revocable trust account would be reduced from \$400,000 to \$200,000, because coverage for this type of account is calculated as \$100,000 for each combination of settlors and qualifying beneficiaries. In sum, the maximum coverage of the four accounts would be reduced immediately upon the death of the husband or wife from \$800,000 to \$400,000.

NCUA does not believe this result is fair or desirable. NCUA recognizes there are a number of practical difficulties a member's survivors might encounter in attempting to restructure the member's share accounts immediately upon the member's death. NCUA further recognizes that these difficulties are worsened in that they would occur at a time of grief when dealing with financial matters may not be a priority for the member's survivors. Accordingly, NCUA believes it would be beneficial to grant a six-month grace period after a member's death for his or her survivors to restructure the accounts. During this grace period, the insurance coverage of the deceased member's accounts would not change from that available immediately before the member's death, unless the accounts are restructured during the grace period by those authorized to do so. Because the intent of this grace period is to avoid reduced insurance coverage, the grace period will not be applied if doing so would result in decreased share insurance coverage.

Insurance Coverage After the Merger of Insured Credit Unions

NCUA encourages members to structure their accounts at insured credit unions in a manner that will provide maximum share insurance coverage and has developed a share insurance program to facilitate that goal. As part of that program, a member's share accounts at an insured credit union are insured separately from that member's share accounts at any other separately chartered, insured credit union. Because of this, the merger of insured credit unions could jeopardize a member's insurance coverage even

when a member has structured his or her accounts at different insured credit unions to be fully insured. Specifically, when a member has accounts at more than one insured credit union, a merger of those credit unions could reduce the amount of share insurance coverage the member had before the merger. For example, member X has a \$75,000 individual account at insured credit union A and a \$50,000 individual account at insured credit union B. Both accounts are fully insured because a member is entitled to \$100,000 of coverage in the aggregate for all individual accounts in each insured credit union. 12 CFR 745.1; 12 CFR 745.3. If insured credit unions A and B merge, then X would have individual accounts in the surviving insured credit union totaling \$125,000. X would be insured for \$100,000 and uninsured for \$25,000.

NCUA does not believe members should immediately have reduced share insurance coverage as a result of credit union mergers. Accordingly, NCUA proposes to provide members with a six-month grace period following the merger of insured credit unions, during which time members will receive separate insurance of their accounts as though no merger had occurred. NCUA believes six months is sufficient time for members to restructure their accounts to maximize share insurance coverage.

A share certificate that matures after the six-month grace period will receive the separate insurance treatment until the first maturity date following the grace period. A share certificate that matures during the six-month grace period and is renewed for the same term and dollar amount will receive the separate insurance treatment until the first maturity date after the grace period under the terms of the renewed certificate. A share certificate that matures during the grace period that is not renewed, or is renewed on any basis other than for the same term and dollar amount as the original certificate, is separately insured only for the six-month grace period.

Coverdell Education Savings Accounts

In May 2000, Education IRAs were specified as insurable under NCUA's share insurance rules as irrevocable trust accounts. 65 FR 34921 (June 1, 2000). Since that time, Education IRAs have been replaced with Coverdell Education Savings Accounts. NCUA proposes to revise the share insurance rules to reflect that 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 (those under one million dollars in assets). The proposed rule only clarifies the share insurance coverage available to credit union members, without imposing any regulatory burden. The proposed rule would 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 proposed 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 proposed 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 proposed 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 proposed 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).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive.

List of Subjects in 12 CFR Part 745

Administrative practice and procedure, Bank deposit insurance, Claims, Credit unions.

By the National Credit Union Administration Board on June 26, 2003.

Becky Baker, Secretary of the Board.

For the reasons stated above, NCUA proposes to amend 12 CFR part 745 as follows:

PART 745—SHARE INSURANCE AND APPENDIX

1. The authority citation for part 745 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789.

2. Section 745.2 is amended by adding paragraphs (e) and (f) to read as follows:

§ 745.2 General principles applicable in determining insurance of accounts.

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(e) Continuation of insurance coverage following the death of a member. The death of a member will not affect the member's share insurance coverage for a period of six months following death unless the member's share accounts are restructured in that time period. If the accounts are restructured during the six-month grace period, or upon the expiration of the six months if not restructured, the share insurance coverage will be provided on the basis of actual ownership of the accounts in accordance with the provisions of this part. The operation of this grace period, however, will not result in a reduction of coverage.

(f) Continuation of separate share insurance coverage after merger of insured credit unions. Whenever the liability to pay the member accounts of one or more insured credit unions is assumed by another insured credit union, whether by merger, consolidation, other statutory assumption or contract:

(1) The insured status of the credit unions whose member account liability has been assumed terminates, for purposes of this section, on the date of receipt by NCUA of satisfactory evidence of the assumption; and

(2) The separate insurance of member accounts assumed continues for six months from the date the assumption takes effect or, in the case of a share certificate, the earliest maturity date after the six-month period. In the case of a share certificate that matures within the six-month grace period that is renewed at the same dollar amount, either with or without accrued

dividends having been added to the principal amount, and for the same term as the original share certificate, the separate insurance applies to the renewed share certificate until the first maturity date after the six-month period. A share certificate that matures within the six-month grace period that is renewed on any other basis, or that is not renewed, is separately insured only until the end of the six-month grace period.

3. Section 745.4 is amended by adding two sentences to the end of paragraph (a) and revising paragraph (c) to read as follows:

§ 745.4 Revocable trust accounts.

(a) * * * This required intention must be demonstrated in the title of the account using commonly accepted terms such as, but not limited to, "in trust for", "as trustee for", "payable on death to", or any acronym for these terms. In addition, the beneficiaries must be specifically named in the share account records of the insured credit union.

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(c) If the named beneficiary of a revocable trust account is other than the spouse, child, grandchild, parent, brother or sister of the account owner, the funds corresponding to that beneficiary shall be treated as an individually owned account of the owner, aggregated with any other individually owned accounts of the owner, and insured up to \$100,000. For example, if A establishes an account payable upon death to his nephew, the account would be insured as an individual account owned by A. Similarly, if B establishes an account payable upon death to her husband, son and nephew, two-thirds of the account balance would be eligible for revocable trust account coverage up to \$200,000 corresponding to the two qualifying beneficiaries, the spouse and child. The amount corresponding to the non-qualifying beneficiary, the nephew, would be deemed to be owned by B as an individual account and insured accordingly.

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4. Section 745.9-1 is amended by revising paragraph (c) to read as follows:

§ 745.9-1 Trust accounts.

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(c) This section applies to trust interests created in Coverdell Education Savings Accounts, formerly Education IRAs, established in connection with section 530 of the Internal Revenue Code (26 U.S.C. 530).

5. The Appendix to part 745 is amended by revising the third sentence of Section B to read as follows:

Appendix to Part 745—Examples of Insurance Coverage Afforded Accounts in Credit Unions Insured by the National Credit Union Share Insurance Fund

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B. How Are Revocable Trust Accounts Insured?

* * * If the named beneficiary of a revocable trust account is other than the spouse, child, grandchild, parent, brother or sister of the account owner, the funds corresponding to that beneficiary shall be treated as an individually owned account of the owner, aggregated with any other individually owned accounts of the owner, and insured up to \$100,000.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-CE-29-AD]

RIN 2120-AA64

Airworthiness Directives; PILATUS Aircraft Ltd. Model PC-7 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain PILATUS Aircraft Ltd. (Pilatus) Model PC-7 airplanes. This proposed AD would require you to inspect the forward and aft dihedral fittings for cracks and replace any cracked fitting. This proposed AD would also require you to modify the aft dihedral fitting and spar-cap bolt holes. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this proposed AD are intended to prevent cracks from developing in the forward and aft dihedral fittings, which could result in failure of the wing in certain maneuvers. Such failure could lead to loss of control of the airplane.