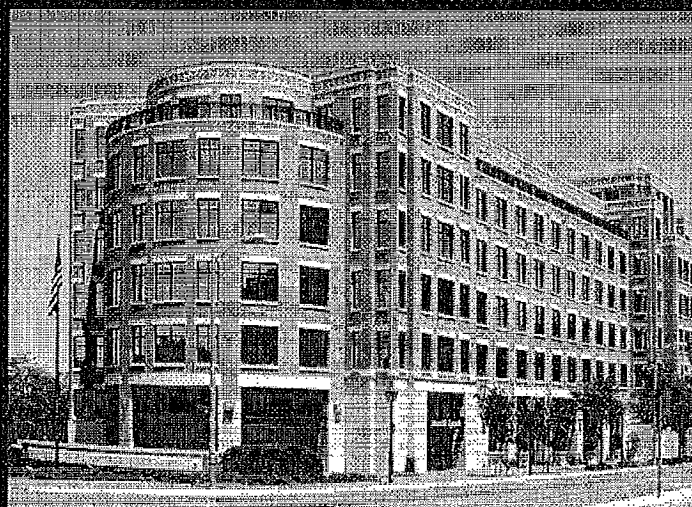




National Credit Union Administration
**National Supervision
Policy Manual**



CHAPTER 1 – DISTRICT MANAGEMENT	12
1. EXAMINATION BUDGETING/SCHEDULING.....	12
A. <i>Budgeting Process</i>	12
B. <i>Scheduling of Examinations and Supervision Contacts</i>	13
C. <i>NCUA Annual Examination Scheduling Program</i>	14
2. GENERAL SUPERVISION RESPONSIBILITIES	15
A. <i>Examiner Responsibilities</i>	15
B. <i>Supervisor Responsibilities</i>	16
C. <i>Regional Director Responsibilities</i>	17
D. <i>Office of Examination and Insurance Responsibilities</i>	18
3. ADMINISTRATIVE RECORD.....	18
4. (b)(8)	
5. (b)(8)	
6. CAMEL 3, 4, OR 5 DOWNGRADE/UPGRADE	19
7. 5300 CALL REPORT, QUARTERLY TRENDING ANALYSIS, AND RATE	20
A. <i>Field Responsibilities</i>	20
B. <i>Supervisor Responsibilities</i>	21
C. <i>Division of Supervision (DOS) Responsibilities</i>	22
8. ADMINISTRATIVE ITEMS.....	22
A. <i>Notifying the Credit Union of the Examination/Supervision Contact</i>	22
B. <i>Timeframe to Complete Examinations/Supervision Contacts</i>	22
C. <i>Team Member Expectations</i>	22
D. <i>Examination/Supervision Completion Date and AIREs Upload Requirements</i>	23
E. <i>Delivering the Report to the Credit Union Officials</i>	24
F. <i>Electronic Copies of Reports</i>	24
G. <i>AIREs File Size Limitation</i>	24
H. <i>Required Workpapers</i>	25
I. <i>Deleting AIREs Files</i>	26
J. <i>Documented Secondary Review of CAMEL Ratings</i>	26
K. <i>Limiting Examinations in Process</i>	27
L. <i>EIC Rotation - Limits on Consecutive Years District Assignment</i>	27
M. <i>Electronic and Hard Copy Field Files</i>	27
N. <i>Minimal AIREs Upload</i>	28
9. CONFIDENTIAL SECTION.....	28
10. JOINT CONFERENCES AND EXIT MEETINGS	29
11. COMMUNICATING DIRECTLY WITH A CREDIT UNION.....	30
A. <i>Informal Communication</i>	30
B. <i>Formal Communication</i>	30
C. <i>Writing Guidelines</i>	31
12. COMMUNICATING WITH LAW ENFORCEMENT, OUTSIDE AUDIT FIRMS, OR OTHER FEDERAL AGENCIES	31
13. NEW CREDIT UNION SUPERVISION	32
14. CRITICAL CASE CREDIT UNION BRIEFINGS	32
A. <i>Developing the Critical Case List</i>	33
B. <i>Meeting to Discuss Critical Cases</i>	33
C. <i>Preparing, Sending, and Reporting on Critical Cases</i>	34
15. CONTROL REPORTS.....	34
A. <i>Regional Control Reports</i>	34
B. <i>E&I Control Reports</i>	35
APPENDIX 1-A	36
(b)(8)	
APPENDIX 1-B	38

(b)(8)

APPENDIX 1-C 39

SAMPLE TEAM MEMO 39

CHAPTER 2 – FEDERAL CREDIT UNION (FCU) PROGRAM AND PROCEDURES 42

- 1. EXAMINATION PLANNING 42
 - A. Preliminary Assessment 42
 - B. AIREs Exam Scope (Scope Module) 43
- 2. MEMBERSHIP DATA INFORMATION 44
- 3. FCU EXAMINATIONS (WCC 10) 44
- 4. FCU SUPERVISION CONTACTS 44
 - A. Follow-Up Examinations for Troubled/Problem FCUs (WCC 22) 45
 - B. Onsite Supervision Contacts (WCC 22) 47
 - C. Offsite Supervision Contacts (WCC 27) 48
 - D. Monthly Financial Monitoring (WCC 27) 49
 - E. Processing of 5300 Reports and Quarterly Trending for FCUs (WCC 20) 49

APPENDIX 2-A 50

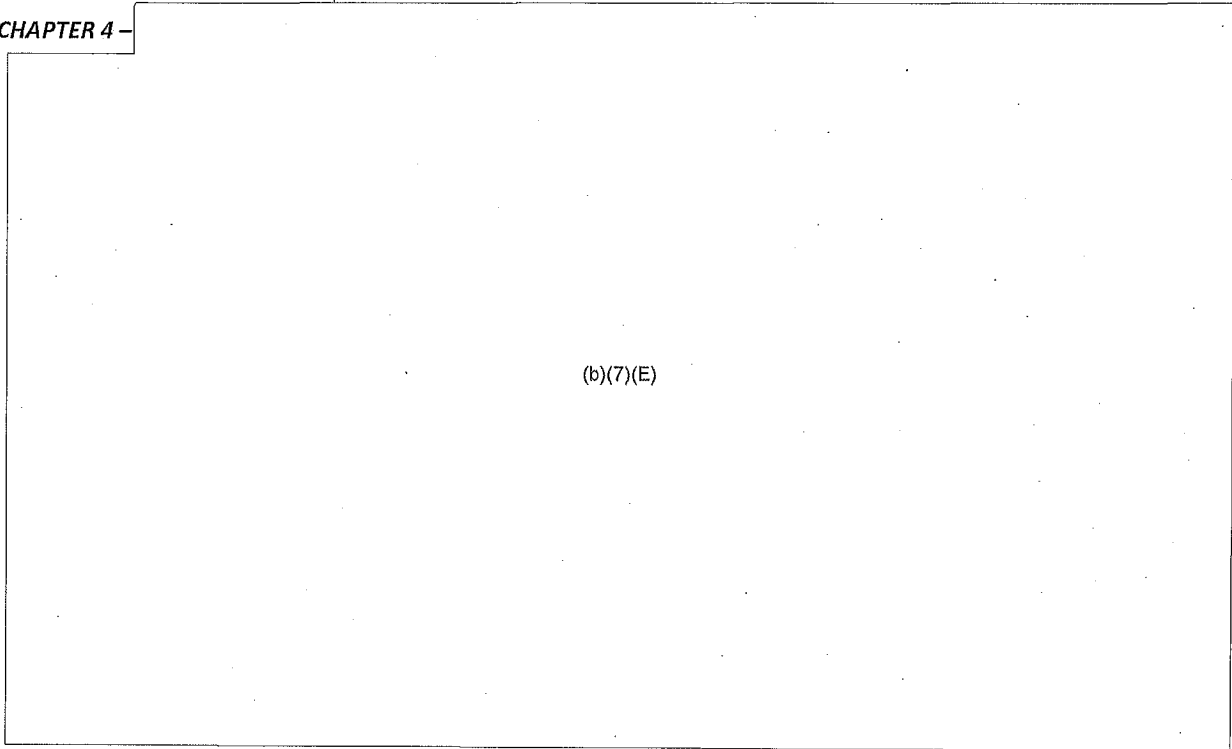
(b)(8)

CHAPTER 3 - FISCU PROGRAM AND PROCEDURES 53

- 1. COMMUNICATION WITH THE SSA 53
 - A. Supervisor Responsibilities 53
 - B. Regional Director (RD) and Associate Regional Director (ARDP) Responsibilities 54
- 2. NCUA'S FISCU PROGRAM 54
 - A. Disclosure of NCUA CAMEL and Risk Ratings 54
 - B. NCUA Onsite Presence Criteria 55
 - C. Examination and Supervision Planning and Scoping 55
 - D. Preliminary Risk Assessment 55
 - E. AIREs Scope 56
 - F. NCUA-SSA Joint Scoping 57
- 3. TYPES OF FISCU EXAMINATIONS (WCC 11) 58
 - A. Joint Examinations (WCC 11) 58
 - B. Insurance Reviews (WCC 11) 59
- INSURANCE REVIEW DOCUMENTATION 60
 - Joint Conferences 60
- 4. SUPERVISION CONTACTS 61
 - A. Follow-Up Examinations for Troubled/Problem FISCUs (WCC 23) 61
 - B. Onsite Supervision Contacts (WCC 23) 64
 - C. Offsite Supervision Contacts (WCC 28) 66
 - Documentation Requirements for Offsite Contacts Eight Hours or More 66
 - Documentation Requirements for Offsite Contacts Less Than Eight Hours 67
 - D. Monthly Financial Monitoring (WCC 28) 67
 - E. Reviews of SSA Examinations (WCC 26) 67
 - F. Processing of 5300 Reports and Quarterly Trending for FISCUs (WCC 21) 68
- 5. COMPLETING A REVIEW OF A STATE EXAMINATION (WCC 26) 68
 - A. Receipt of SSA Examination 68
 - B. WCC 26 Timeframes 68
 - C. Review of the SSA Report 69
 - D. Procedures in AIREs for WCC 26s 69
- 6. REQUESTING ADDITIONAL INFORMATION FROM THE SSA 71
- 7. JOINT CONFERENCES FOR FISCUs 71
- 8. ISSUING REPORTS TO FISCUs 71

9. DISCLOSURE OF CAMEL IN FISCUS	72
10. AIRES UPLOADS FOR FISCUS	72
11. CREDIT UNION ENFORCEMENT ACTION	73
12. FISCU CONSUMER COMPLIANCE PROGRAM	73
13. NCUA RESPONSIBILITIES REGARDING COMPLIANCE REGULATIONS IN FISCUS	74
APPENDIX 3-A	75
CHAPTERS 2 AND 3 COMPARISON MATRIX	75

CHAPTER 4 –

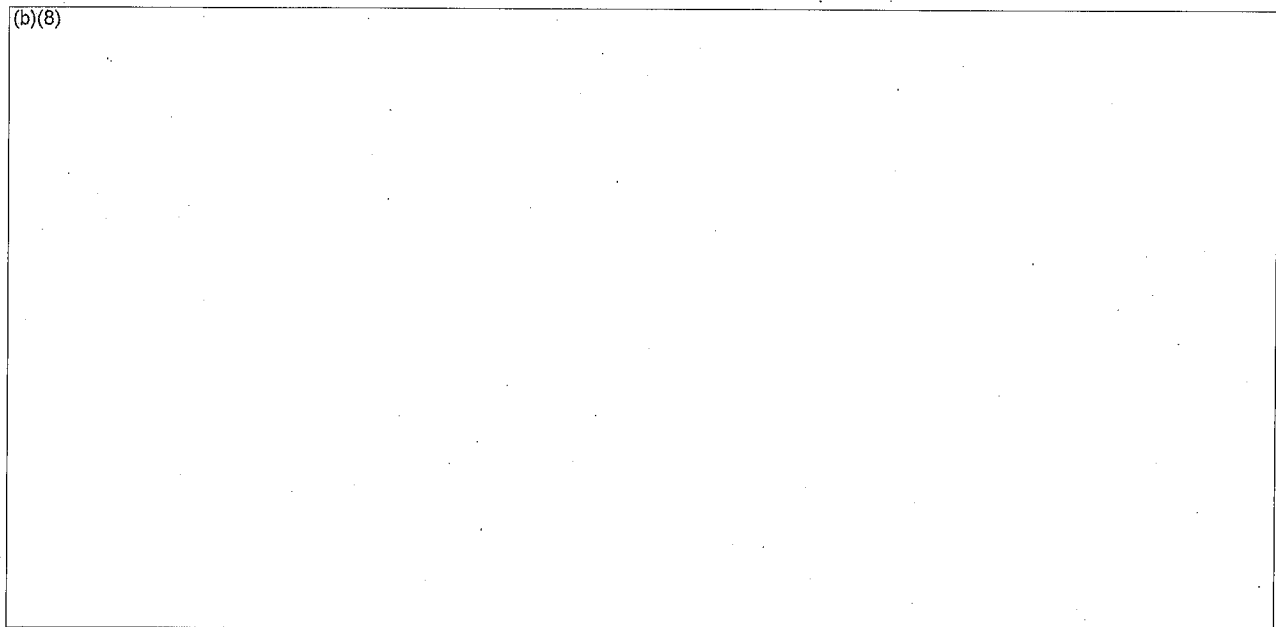


(b)(7)(E)

CHAPTER 5 – AUDITS, RECORDKEEPING, AND FRAUD	90
1. EXAMINER RESPONSIBILITIES	90
2. AUDIT FIRMS LOCATED OUTSIDE THE GEOGRAPHIC AREA	90
3. UNACCEPTABLE AUDITS AND MEMBER ACCOUNT VERIFICATIONS	90
4. AUDITS BY LICENSED INDEPENDENT ACCOUNTANTS	91
5. SIGNIFICANT RECORDKEEPING CONCERNS	92
A. <i>Incomplete Bank Reconcilements or Over 60 Days in Arrears</i>	93
B. <i>Records Materially In Arrears or Significant Unreconciled Differences</i>	93
6. ADDRESSING BOND CLAIMS	94
7. DETERMINE BONDABILITY STATUS	95
8. DISHONESTY, FRAUD, AND INSIDER DEALINGS	95
9. FRAUD REPORT INVESTIGATIONS	95
CHAPTER 6 – REGULATORY WAIVERS, CHANGE OF OFFICIALS, AND OTHER REGULATORY ACTIONS	97
1. GENERAL PROCEDURES AND REQUIREMENTS FOR WAIVERS	97
A. <i>General Responsibilities</i>	97
B. <i>Waiver Processing Procedures</i>	98
C. <i>FISCU Waiver Processing</i>	100
D. <i>Waiver Timeframes</i>	100
E. <i>Waiver Periodic Review and Revocation Process</i>	100
F. <i>Waiver Monitoring and Controls</i>	101
2. FIXED ASSET WAIVERS	102

A.	<i>Monitoring of Fixed Asset Approval</i>	102
B.	<i>Violation of the Fixed Asset Regulation</i>	102
3.	EXCESS PROPERTY	103
A.	<i>Acquired Premises for Future Expansion</i>	103
B.	<i>Abandoned Property</i>	103
4.	NONMEMBER DEPOSITS LIMITATION WAIVER	103
5.	EARNINGS TRANSFER WAIVER	104
A.	<i>Earnings Retention</i>	104
B.	<i>Reduction of the Earnings Transfer Requirement</i>	105
6.	MBL WAIVERS AVAILABLE UNDER PART 723	106
A.	<i>MBL Waiver Request Packages</i>	107
B.	<i>Field Responsibilities</i>	108
C.	<i>Monitoring after Approval</i>	108
D.	<i>Violations after Waiver Approval</i>	108
E.	<i>MBL Rule Violations</i>	109
7.	MBL NONMEMBER AGGREGATE APPROVAL	110
A.	<i>Nonmember Aggregate Approval Request Packages</i>	110
8.	MBL AGGREGATE LIMIT EXCEPTION	110
9.	NCUA INVESTMENT PILOT PROGRAM	111
A.	<i>Guidelines for Evaluating Participation in a New Investment Pilot Program</i>	111
B.	<i>Evaluating NCUA Investment Pilot Program Participation</i>	112
C.	<i>Guidelines for Evaluating Requests to Participate in Approved Third-Party Programs</i>	112
D.	<i>E&I Review and Due Diligence</i>	113
E.	<i>Monitoring after Approval</i>	113
10.	CHANGES OF OFFICIALS FOR TROUBLED AND NEWLY CHARTERED CREDIT UNIONS	114
A.	<i>Required Information</i>	115
B.	<i>Affected Credit Unions</i>	115
C.	<i>Timeframes for Approval</i>	115
D.	<i>DOS Responsibilities</i>	115
E.	<i>Field Responsibilities</i>	116
F.	<i>Approval Process</i>	116
G.	<i>Grounds for Denial</i>	117
H.	<i>Request for Reconsideration and/or Appeal to the NCUA Board</i>	117
I.	<i>Waiver of 30 Day Notification Requirement</i>	117
J.	<i>Withdrawal of Application</i>	118

(b)(8)

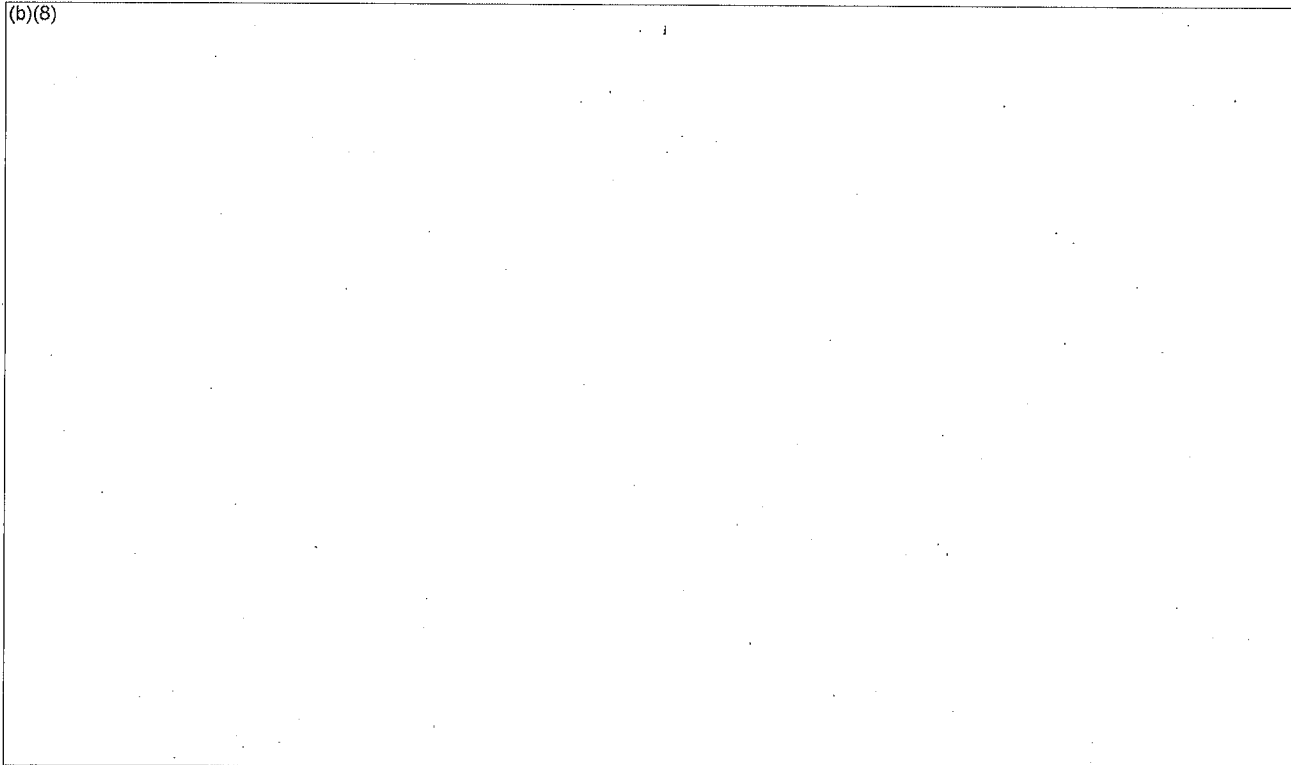


(b)(8)

APPENDIX 6-HH	164
WAIVER TYPES AND TIMEFRAMES	164
CHAPTER 7 – CREDIT UNION SERVICE ORGANIZATIONS (CUSO)	167
1. GENERAL RESPONSIBILITIES REGARDING CUSOs	167
A. <i>Examiner Responsibilities</i>	167
B. <i>Supervisor Responsibilities</i>	167
C. <i>Regional Office Responsibilities</i>	167
D. <i>E&I Responsibilities</i>	168
2. SELECTION, SCHEDULING & STAFFING CUSO REVIEWS	168
3. SCOPE OF REVIEW	168
4. CUSO REPORT & WORKPAPERS	169
5. DISTRIBUTION OF REVIEW RESULTS	170
6. MAINTENANCE OF CUSO REVIEW REPORTS	171
7. SSA INVOLVEMENT	171
8. SSA CUSO REPORTS	171

(b)(8)

(b)(8)



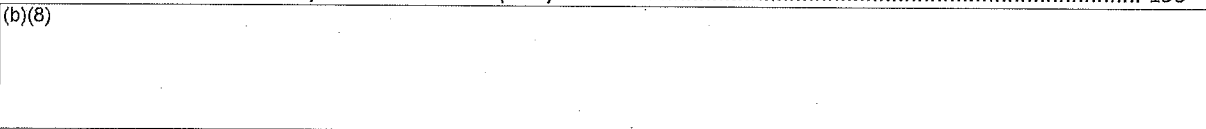
CHAPTER 8 – OFFICE OF SMALL CREDIT UNION INITIATIVES (OSCUI) AND THE NATIONAL SMALL CREDIT UNION PROGRAM (NSCUP) 188

- 1. DIRECT ASSISTANCE 188
- 2. REFERRAL AND ENROLLMENT PROCESS 188
- 3. KEY TRAINING OR CONSULTING AVAILABLE 189
- 4. RELATIONSHIPS WITH OSCUI, FIELD STAFF, AND THE REGIONAL OFFICES 190
 - A. *Examiner Responsibilities* 190
 - B. *Supervisor Responsibilities* 191
 - C. *DOS Responsibilities* 191
 - D. *OSCUI Responsibilities* 191
 - E. *EDS Responsibilities* 192

CHAPTER 9 – BANK SECRECY ACT (BSA) ENFORCEMENT 193

- 1. SUSPICIOUS ACTIVITY REPORT (SARs) 193
 - A. *When to File a SAR* 193
 - B. *SAR Filing Information* 193
- 2. REQUESTING CURRENCY TRANSACTION REPORTS (CTRs), SUSPICIOUS ACTIVITY REPORT (SARs), AND DESIGNATION OF EXEMPT PERSONS (DOEPs) HISTORIES 194
- 3. BSA ENFORCEMENT 194
- 4. BSA VIOLATIONS 195
 - A. *AIRES Consumer Compliance Violations (CCV) Module* 195

(b)(8)



- 7. RESOLUTION OF SIGNIFICANT BSA VIOLATIONS 197
 - A. *FCUs* 197
 - B. *FISCUs* 199
- 8. REPORTING THE RESOLUTION OF BSA VIOLATIONS 199
- 9. BSA CONTROL REPORTS 200
 - A. *Regional BSA Control Reports* 200

(b)(8)

APPENDIX 9-B 205

BSA REFERENCES 205

CHAPTER 10 – PROMPT CORRECTIVE ACTION (PCA)..... 206

1. CATEGORY CLASSIFICATIONS..... 206

2. PCA CLASSIFICATION 206

 A. *Examiner Responsibilities*..... 206

 B. *Effective Date of Classification*..... 207

 C. *Reclassification Based on Correction – FCU versus FISCU*..... 207

3. EARNINGS AND RESERVE TRANSFER REQUIREMENTS FOR “ADEQUATELY CAPITALIZED” OR LOWER FICUS 208

 A. *Examiner Responsibilities*..... 208

 B. *Regional Office Review*..... 209

4. NET WORTH RESTORATION PLANS (NWRP) AND REVISED BUSINESS PLANS (RBP)..... 209

 A. *Processing NWRPs\RBPs - Division of Supervision Responsibilities*..... 209

 B. *Processing NWRPs\RBPs - Examiner Responsibilities*..... 210

 C. *FISCU NWRP/RBP Processing*..... 210

 D. *Failure to Submit an NWRP/RBP*..... 210

 E. *Monitoring NWRPs and RBPs after Approval*..... 211

 F. *Discontinuance of an NWRP/RBP*..... 212

5. INVOKING DISCRETIONARY SUPERVISORY ACTIONS (DSAs) AND OTHER CORRECTIVE ACTIONS (OCAs) FOR CRITICALLY UNDERCAPITALIZED CREDIT UNIONS 212

 A. *Discretionary Supervisory Actions*..... 212

 B. *Other Corrective Actions for Critically Undercapitalized Credit Unions* 213

6. GUIDELINES FOR SUBMISSION OF AN APPLICATION FOR A PCA RISK MITIGATION CREDIT 213

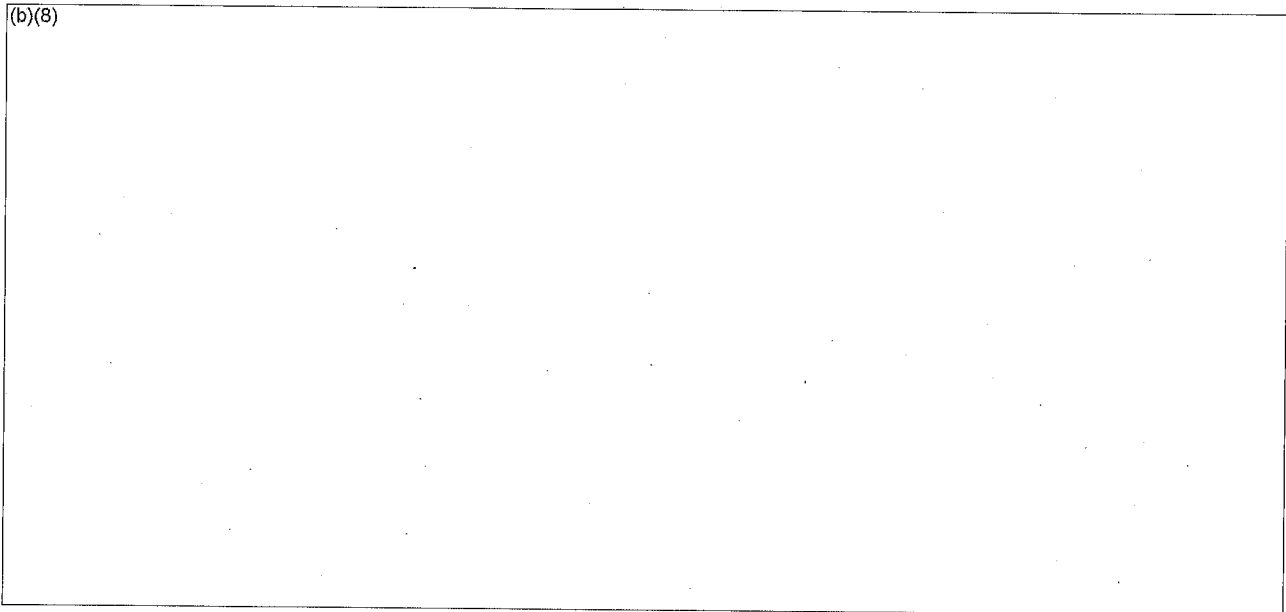
7. MONITORING AND CONTROLS 214

 A. *Regional Level Reporting*..... 214

 B. *E&I Level Reporting*..... 214

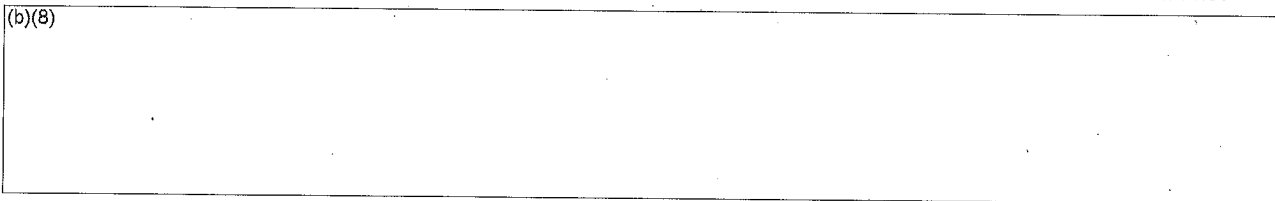
(b)(8)

(b)(8)



APPENDIX 10-L..... 236
 NCUA 8507 GUIDELINES FOR SUBMISSION OF AN APPLICATION FOR PCA RISK MITIGATION CREDIT..... 236
APPENDIX 10-M..... 237
 GUIDELINES FOR EVALUATION OF APPLICATION FOR PCA RISK MITIGATION CREDIT 237

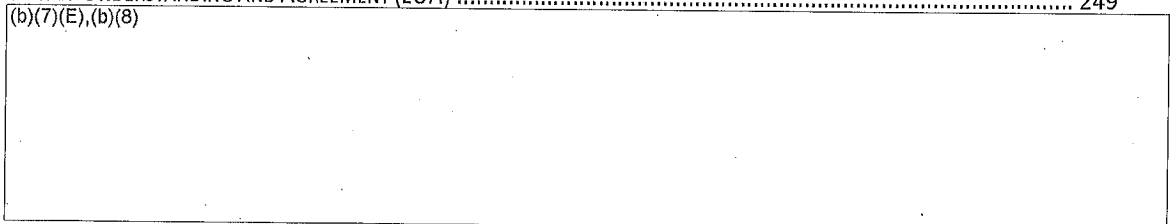
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CHAPTER 11 – ADMINISTRATIVE REMEDIES..... 242

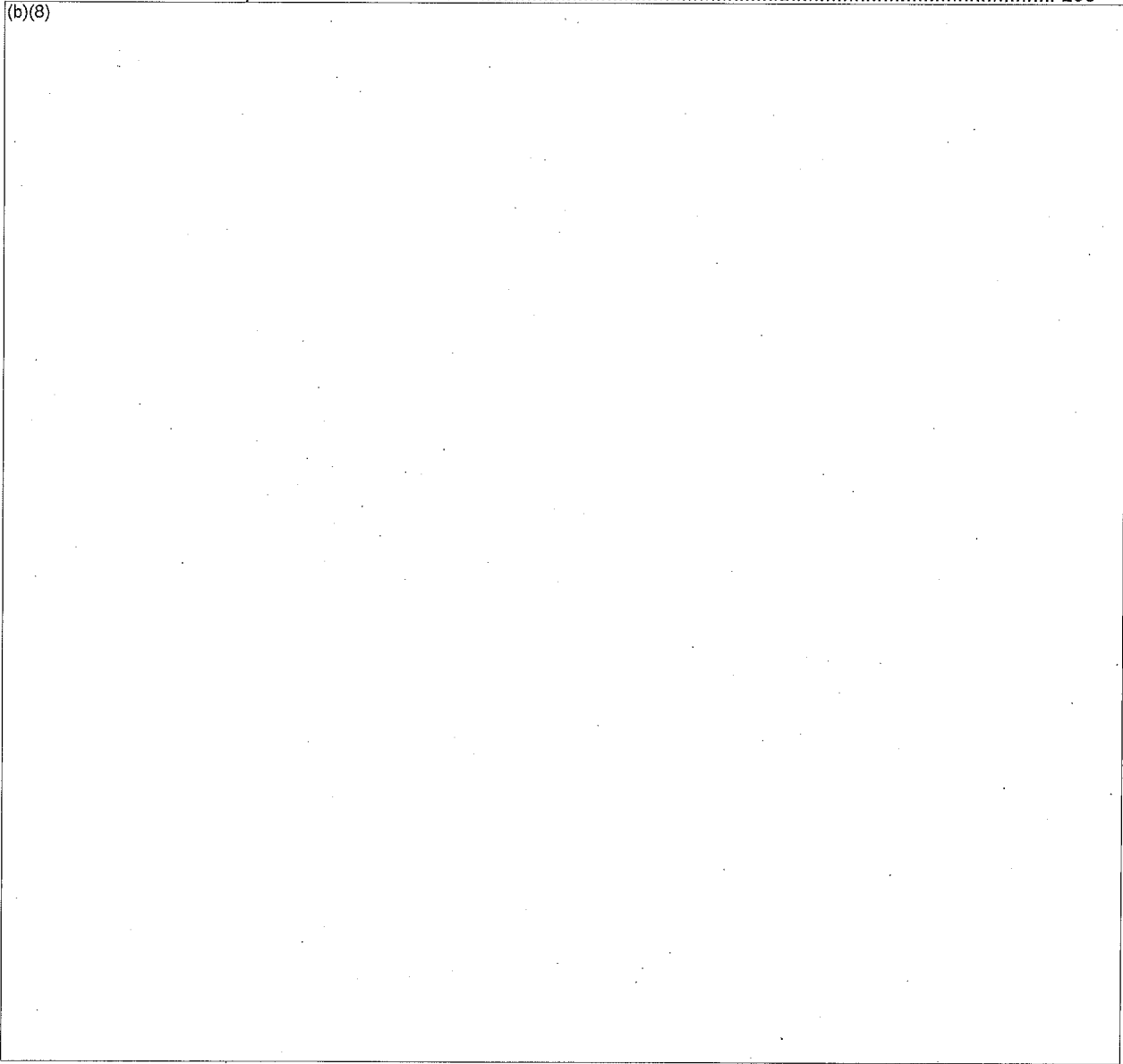
1. GENERAL RESPONSIBILITIES REGARDING ADMINISTRATIVE REMEDIES 242
 - A. *Examiner Responsibilities*..... 242
 - B. *Supervisor Responsibilities* 243
 - C. *Regional Directors Responsibilities*..... 243
 - D. *E&I and the Office of General Counsel Responsibilities*..... 243
2. TYPES OF ADMINISTRATIVE REMEDIES 244
 - A. *Informal Actions* 244
 - B. *Formal Actions* 244
3. DOCUMENT OF RESOLUTION (DOR) 245
 - A. *Examiner Responsibilities*..... 245
 - B. *Review of Outstanding DOR Items* 246
 - C. *DORs Not Adopted* 247
 - D. *Reporting Problem Codes*..... 247
4. REGIONAL DIRECTOR LETTER (RDL)..... 248
 - A. *Examiner Responsibilities*..... 248
 - B. *Division of Supervision Review* 249
5. LETTER OF UNDERSTANDING AND AGREEMENT (LUA) 249

- A.
- B.
- C.
- D.
- E.



F.	<i>Procedures for Issuing an LUA</i>	252
G.	<i>Delivering an LUA</i>	253
H.	<i>Delivering the Final Signed LUA</i>	253
I.	<i>Supervision Contacts for Credit Unions with LUAs</i>	254
J.	<i>Terminating an LUA</i>	255
6.	PRELIMINARY WARNING LETTERS (PWL)	255
A.	<i>Field Responsibilities</i>	256
B.	<i>Content of a PWL</i>	256
C.	<i>Division of Supervision Review</i>	256
D.	<i>Delivering a PWL</i>	256
E.	<i>Supervision Contacts for Credit Unions with PWLs</i>	257
F.	<i>Terminating a PWL</i>	258
7.	INITIATING FORMAL ADMINISTRATIVE ACTIONS	259
8.	SPECIAL ASSISTANCE CASES.....	259
9.	CONTROL REPORTS.....	259
A.	<i>Regional Control Reports</i>	259
B.	<i>E&I Control Reports</i>	260

(b)(8)



(b)(8)

CHAPTER 12 – WORK CLASSIFICATION CODE DEFINITIONS 285

- 1. WORK CLASSIFICATION CODES..... 285
- 2. ADMINISTRATIVE TIME CODES..... 286
- 3. SUBJECT MATTER EXAMINER (SME) TIME CODES..... 288
- 4. ECONOMIC DEVELOPMENT SPECIALISTS (EDS) CODES 289

(b)(8)

EXPLANATIONS OF COMMONLY USED ACRONYMS AND INITIALISMS..... 291

GROUPING ASSOCIATIONS USED IN THE NSPM..... 292

HELPFUL HINTS FOR HYPER LINKING..... 293

MAP OF REGIONAL OFFICES..... 293

Chapter 1 – District Management

District management encompasses the comprehensive objective of managing and maintaining continuous and detailed knowledge of an assigned district of credit unions. This includes ongoing financial analysis, knowledge of local economic condition, knowledge of current events affecting assigned credit unions, identification of emerging risks, and the routine reporting to management on these issues. The ongoing reevaluation of supervision plans based on this analysis is needed to effectively match resources to risks.

District management also includes the scheduling, the prioritizing, and the administrative tasks associated with the examiner position. Examiners are responsible for effectively managing risk within their districts by scheduling examinations/supervision contacts based on current and emerging risks. Examiners will document supervision and keep their supervisor apprised of any significant issues affecting their ability to provide adequate supervision to assigned credit unions. Effective district management includes the collaboration of examiners,¹ supervisors,² Regional Offices, and the Central Office to provide risk-focused supervision and mitigate losses to the National Credit Union Share Insurance Fund (NCUSIF).

1. Examination Budgeting/Scheduling

Budgeting and scheduling of examination work is critical to effectively manage resources and ensure timely examinations/supervision contacts. Appropriate scheduling ensures resource allocation can be directed to the credit unions of regional and national significance as needs arise and helps to ensure the NCUA achieves its mission.

A. Budgeting Process

Examiners – The budgeting process begins with examiners. Examiners are responsible and accountable for using historical knowledge of the credit union, Management Automated Resource System (MARS), and/or the “Plans & Budget Tab” in the Scope Module to view previously recommended examination/supervision hours for each district credit union. Based on this information, examiners will submit recommended estimated hours to their supervisor during the annual resource planning process using the credit union resource allocation module in MARS online (E&I provides instructions for this process annually).

Additionally, examiners will recommend specialized resources in consultation with their supervisor when the size, complexity, or potential risk to the NCUSIF warrants the use of specialized expertise Regional Office staff, Central Office staff, Asset Management Assistance Center (AMAC), outside contractors,

¹ Throughout this Manual, the term “examiner” includes District Examiners, Problem Case Officers, and specialized examiners.

² Throughout this Manual, the term “supervisor” includes both Supervisory Examiners and Directors of Special Actions.

etc.). Examiners will consult with their supervisor during the year if conditions warrant changes to the examination budget.

Supervisors – Supervisors are responsible and accountable for:

- Managing resources on an ongoing basis throughout the year to ensure the proper development of examiners and completion of program including the resolution of risk areas;
- Managing resources to effectively examine large, complex and problematic institutions;
- Evaluating the annual budget recommendation for the group after consultation with their district examiners;
- Monitoring and reconciling group budgets monthly using the MARS online system and according to ARDP direction; and
- Reporting the group program status, variances, and shortfalls to the ARDP monthly, adjust budgets, or request assistance when group resources are not sufficient to complete the examination program or as conditions warrant.

RD/ARDP – ARDPs are responsible and accountable for managing the regional resources budget and keeping the Regional Directors informed of the status of regional examination/supervision programs. ARDPs will reallocate regional resources and coordinate with ARDO/ARDPs/RD to secure assistance when group resources are not sufficient. ARDPs will ensure all workload budgets are reconciled by the 10th of each month. Regional Directors will provide quarterly reports to E&I³ noting the region's examination program, workload budget, and the status of any shortfalls and/or the identification of any assistance needed.

E&I – E&I is responsible and accountable for monitoring the successful completion of the national examination and supervision program. E&I will review the status of regional and national program completion and emerging needs, assist with resource needs where necessary, and establish national priorities when conditions warrant ensuring completion of national program goals. E&I will monitor appropriate MARS reports, specialized reports, and evaluate quarterly regional workload reports, to identify national trends and resource priorities.

B. Scheduling of Examinations and Supervision Contacts

³ E&I will periodically and routinely request these reports from the regions. E&I will allow sufficient time for regional responses.

The timing of examinations/supervision contacts is important from both a risk management and resource management perspective. Examinations will be scheduled in accordance with NCUA's Annual Examination Scheduling Program.

C. NCUA Annual Examination Scheduling Program

An annual examination will consist of every Federal Credit Union and those Federally Insured State Chartered Credit Unions with assets greater than \$250 Million being examined once each calendar year. NCUA will use the examination completion date as a beginning point to assist field staff to determine appropriate examination scheduling and to monitor compliance with the minimum and maximum examination timeframes. Examiners will schedule and complete annual examinations using the following time intervals:

- Maximum time between the completion dates of one examination to the completion date of the next examination is 23 months. ARDPs must approve examinations or material onsite contacts extending beyond 18-months of the completion date of the last examination.
- Minimum time between the completion dates of one examination to the completion date of the next examination is 8 months. ARDPs may authorize an earlier minimal time interval where risk indicators warrant an accelerated examination.

Examiners – Examiners are responsible for managing assigned district credit unions. Examiners will schedule examinations/supervision contacts based on risk priorities, including the completion of problem case credit unions within established time frames. In addition, examiners may be assigned other work assignments outside their assigned districts. These assignments will be determined by the supervisor or regional management.

Annually, as part of district management, examiners will determine their plans for examining and supervising their assigned credit unions. Additionally, during the annual resource budgeting process examiners will re-evaluate and affirm their plans for each credit union for the following year. The information will be submitted to the assigned supervisor for inclusion in the resource budget.

Examiners will develop a plan for monitoring and supervising credit unions consistent with their size, complexity, condition, and timing of the next examination. Examiners may change their exam, insurance review, and supervision plans at any time if circumstances warrant. Changes will be made through the assigned supervisor.

Supervisors – Supervisors are responsible for monitoring their examiners' resource allocation plans for appropriateness and consistency with the appropriate scheduling program. They will evaluate scheduling changes throughout the year to ensure they meet budgetary goals and maintain a results oriented examination

program and coordinate specialized resources where conditions warrant. Supervisors will consult with the ARDP, if needed, to obtain assistance in completing workload.

Supervisors will develop the annual resource budget for their assigned credit unions using the information provided by examiners. The process will include an analysis of the level of supervision, timing of examinations, and balancing of year-to-year workload. Supervisors will record and report the scheduling information for their assigned credit unions during the budget process and as changes are made during the year.

Associate Regional Director-Programs - Associate Regional Director-Programs will evaluate the information submitted by the supervisors for reasonableness and ensure it accurately reflects the region's examination scheduling needs and risk profile. Associate Regional Director-Programs will develop the annual resource budget for Regional Director approval using the information provided by the supervisors.

Associate Regional Director-Programs will evaluate on a case-by-case basis variances in completion timeframes. Variances in completion timeframes may only be approved in advance by the Regional Director for extraordinary circumstances such as merger, liquidation, charter conversion, or if risk indicators warrant an accelerated examination schedule.

Regional Directors – Regional Directors are ultimately responsible for the scheduling, monitoring, and reporting of their region's examination program. They are also responsible for monitoring exceptions and variances in the program to ensure they are reasonable. Regional Directors will ensure appropriate resources including expert and specialized resources are dedicated to those examination/supervision contacts of the highest regional importance. Regional Directors will coordinate resources between regions as regional and national needs shift.

Office of Examination and Insurance – The Office of Examination and Insurance will oversee the program for consistency and quality. Oversight will include monitoring of exam completion averages, analysis of exams completed outside of the minimum and maximum parameters, and review of scheduling information submitted by the regions.

2. General Supervision⁴ Responsibilities

A. Examiner Responsibilities

Examiners are responsible for effectively managing risk within their districts and mitigating losses to the NCUSIF. Examiners will schedule examinations and

⁴ "Supervision" encompasses all examinations, onsite, and offsite contacts performed at credit unions and documentation of an administrative record.

supervision contacts based on identified and emerging risks and in accordance with this Manual. Examiners will complete examinations/supervision contacts according to standards established in this Manual, within the AIRE Manual, the Examiner's Guide, and other applicable references including CAMEL and risk ratings with the focus on timely correction of identified problems. Examiners will utilize all tools available to identify current and emerging risks in credit unions. These tools include, but are not limited to:

- Examiner's Guide;
- NCUA's SharePoint sites;
- Letters to Credit Unions;
- Regulatory and Risk Alerts;
- NCUA's Legal Opinions;
- FPRs;
- Risk Reports;
- White Papers;
- FFIEC Guidance; and
- Supervisory Letters.

Examiners are also responsible for completing results-driven supervision and ensuring compliance with the supervision and reporting requirements of this chapter, including, but not limited to, effectively, efficiently, and timely scheduling of onsite and offsite contacts for their assigned credit unions. Examiners will keep their supervisor apprised of any significant issues affecting their ability to provide adequate and proper supervision to their assigned credit unions. Examiners will be responsible for reporting to their supervisor and/or other offices (as needed) their supervision and oversight efforts.

Examiners are responsible for supervising assigned credit unions through:

- Ongoing, results-oriented examination and supervision contacts;
- Quarterly written 5300 Call Report Risk Reviews based upon national risk reports;
- Quarterly analysis of Financial Performance Reports (FPRs);
- Ongoing communication with officials and management; and
- Maintenance of a Supervision Chronology Report (commonly referred to as a "chronology") (Appendix 1-A) for CAMEL 3 credit unions with assets greater than \$250 million, all CAMEL 4/5 credit unions, and in credit unions requiring a 60-day follow up for significant recordkeeping concerns.

B. Supervisor Responsibilities

Supervisors are responsible for managing risks within their groups and mitigating losses to the NCUSIF. Supervisors must ensure examination/supervision contact reports are high quality, results oriented work products that:

- Properly identify and rate significant risks;
- Assign appropriate CAMEL and risk ratings;
- Reflect a complete administrative record; and
- Develop appropriate plans to correct major problems.

Supervisors are responsible for ensuring examinations/supervision contacts are scheduled, conducted, and completed appropriately. Supervisors will facilitate scheduling for team examinations and request appropriate specialized resources are provided for institutions representing a significant risk to the NCUSIF.

Supervisors are also responsible for ensuring examiners complete results-driven supervision and provide the proper level and type of supervision for each credit union. Supervisors will ensure examiners properly schedule supervision contacts, within the appropriate timeframes given the conditions unique to each credit union. Supervisors will ensure extension requests are reasonable and justifiable and will not unduly jeopardize credit union operations or risk to the NCUSIF. Supervisors will use a variety of tools (including but not limited to: MARS, risk reports, quarterly call reports, and regional reports) to ensure assigned credit unions receive the proper results-oriented supervision on a timely basis. Supervisors will be responsible for reporting on the highest risk credit unions in their group to their Regional Office on a regular predefined interval using established forms, methodologies, and systems (e.g. High Risk Credit Union Pipeline, critical cases, etc.).

C. Regional Director Responsibilities

Regional Directors are responsible for mitigating losses to the NCUSIF, identifying emerging risk trends, and taking proactive steps to correct problems. In addition, Regional Directors are responsible for measuring and monitoring the regional examination program for quality and completeness, as well as adherence to established standards including CAMEL and risk ratings. Regional Directors will work with supervisors to ensure appropriate specialized resources are provided for institutions representing a significant risk to the NCUSIF. Regional Directors will report quarterly to the Office of Examination and Insurance regarding the status of their examination programs including adherence to examination and supervision standards.⁵

The Regional Director is also responsible for monitoring and evaluating overall supervision efficiency, effectiveness, and timeliness. The Regional Director will monitor supervision efforts through the quality control review process and various available reporting tools, including self-designed monitoring reports. The Regional

⁵ Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions should ensure their current systems capture the requested information.

Director will report on their high-risk credit unions via the monthly management report, High Risk Credit Union Pipeline (see NCUA Instruction 4001), and other methods as they become available.

D. Office of Examination and Insurance Responsibilities

The Office of Examination and Insurance will monitor national status and trends based on quarterly reports prepared by the ROs. The Office of Examination and Insurance is also responsible for:

- Establishing the national minimum examination scope with regional input;
- Evaluating the quality of the credit union examination program;
- Collecting and monitoring information on emerging risks, resources, and program quality;
- Establishing new examination and quality assurance procedures; and
- Monitoring overall national trends to ensure a high quality examination program with the objective of minimizing risk to the NCUSIF.

E&I is responsible for the overall adherence to established standards outlined in this Manual, Examiner's Guide, AIRE Manual, and other national issuances, including CAMEL and risk ratings. E&I will also monitor the national status and trends of supervision efforts. E&I will use this information to evaluate risk mitigation and control, identify weaknesses in the supervision processes, and develop and deploy (with regional input) revised supervision policies and procedures.

3. Administrative Record

Examiners will ensure the administrative record documents their concerns about the credit union. Examiners must compile the administrative record through AIRE examination/supervision contact reports or other written communications to the officials. The administrative record is the total collection of information needed for decision-making purposes. The administrative record must present a complete, factual, and fully documented history of the credit union's problems. The administrative record should also clearly document the efforts taken (or not taken) by both the credit union officials and NCUA to resolve those problems.

(b)(8)



(b)(8)

6. CAMEL 3, 4, or 5 Downgrade/Upgrade

- Credit unions newly downgraded to a CAMEL Code 4 or 5 must receive notification of their troubled status. In the open section of the report, the examiner will include:

"Your credit union is coded CAMEL 4 [or 5] as a result of this examination (or onsite supervision contact). Therefore, the (Credit Union's Name) Federal Credit Union is now designated in "troubled condition" per Section 212(f) of the Federal Credit Union Act and Section 701.14 of the National Credit Union Administration (NCUA) Rules and Regulations. You must obtain NCUA approval for changes of officials and senior executive officers.

(b)(8)

You can find this information on NCUA's website. The procedures remain in effect until the credit union is upgraded to a CAMEL code 3 or better."

The examiner may choose to include the forms in the exam report or provide the credit union with the specific location of the forms as necessary.⁷

- For credit unions newly upgraded from a CAMEL 4 or 5 to a 3 or better, examiners will include the following excerpt in the open section of the report:

"Previously, your credit union received notification it was subject to requirements under Section 701.14 of the National Credit Union Administration Rules and Regulations. As a result of your credit union's CAMEL rating upgrade to a CAMEL "[enter CAMEL rating of 3, 2, or 1]" rating and removal from "troubled" status, you are no longer required to obtain NCUA approval for changes of officials and senior executive officers."

7. 5300 Call Report, Quarterly Trending Analysis, and RATE

The quarterly trending process is a means to identify and evaluate existing or emerging risk, highlight supervision needs, adjust supervision plans if necessary, and provide for a more effective allocation of examiner resources. The trending process is an integral part of the examiner's offsite supervision process and overall district management. Because examinations and onsite supervision contacts are performed at a specific point in time, offsite supervision provides for an ongoing awareness to any changing financial conditions, risk indicators, and/or emerging risks that may be developing in an examiner's assigned district(s).

The time examiners charge for data collection, validation, FPR review, risk report analysis, scoping, and trending changes for their districts (Work Classification Code (WCC) 20 or 21) should generally fall within the guidelines specified in the applicable Resource Budget Program:

- When NCUA processes the 5300s: 2 hours per cycle for each FICU and 1 additional hour for each manual FICU
- When NCUA does not process the 5300: 1 hour per cycle per FICU

Examiners should use their discretion in charging the time allotted between uploading the call report and performing the risk review. Examiners should contact their supervisor if additional time is needed for the Call Report Risk Review process. Supervisors should approve additional time if the credit union profile warrants additional supervision hours.

A. Field Responsibilities

⁷ <http://www.ncua.gov/GenInfo/GuidesManuals/NoticeOfChangeOfficial/NoticeofChangeOfficial.aspx>

- Process call reports for the assigned district;
- Review the warnings comments and historical warnings for each credit union. Contact credit unions when warranted to determine whether call report changes are necessary (for FISCUs, follow the agreements for the applicable states);
- Access the quarterly trending analysis system – introduced as RATE in June 30, 2012. RATE stands for Risk Analysis and Trending Evaluation tool.
- Download the 5300/FPR Trending System for each examiners assigned district from Share Point;
- Complete the 5300/FPR Trending Dashboard⁸ (see Appendix 1-B for snapshot of the 5300/FPR Trending Dashboard). This process should include an analysis of:
 - FPR;
 - Risk Reports; and
 - 5300 Call report.
- Include comments about significant changes in risk and/or changes in supervision plans in the appropriate comment box; and
- Submit your review to your supervisor.

Examiners will need to complete the 5300/FPR Trending Dashboard for each credit union in their assigned district and submit to their supervisor by the following due dates:

Cycle Date	Risk Report Review Due
December 31	March 15
March 31	June 15
June 30	September 15
September 30	December 15

B. Supervisor Responsibilities

- Review the risk review reports submitted by examiners; and
- Notify the ARD-P of any specific credit unions where supervision plans materially changed as a result of the risk reviews, necessitating material budget increases for necessary supervision.

⁸ The 5300/FPR Trending System is currently under development by E&I and OCIO. The tool is very similar to Region 2's current "watch list."

C. Division of Supervision (DOS) Responsibilities

- Send out quarterly regional call report risk review deadline reminders consistent with the national due date.

8. Administrative Items

A. Notifying the Credit Union of the Examination/Supervision Contact

When feasible, examiners should give credit union officials a minimum of five working days notice prior to starting an examination/supervision contact. Examiners should provide as much advance notice as possible. Examiners may start an examination/supervision contact without providing notice when the Examiner-in-Charge (EIC) desires to conduct a surprise contact due to weak internal controls. Examiners do not need credit union approval of examination scheduling, but whenever possible should reach agreement to minimize the disruption to the credit union and to ensure critical staff members are available while examiners are onsite.

B. Timeframe to Complete Examinations/Supervision Contacts

It is critical to ensure credit union officials receive timely information and take timely corrective action. Examiners should complete all examinations/supervision contacts within 60 calendar days of the start of the examination/supervision contact. The start date is the date listed on the Exam Management Console (EMC) of AIREs. If completion within 60 days is not possible, EICs will notify their supervisor and obtain approval to extend the completion timeframe. If the requested completion date exceeds 90 days, the supervisor will notify and request advance approval from the ARDP. Examiners will document the rationale for the extension request and the decision in the Confidential Section of the report.

Regions will maintain a cumulative report identifying credit union examinations/supervision contacts remaining open more than 60 days and provide this report to the ARDPs quarterly. ARDPs will review the report to evaluate if the extended examination periods were justified.

E&I will evaluate completion time frames not less than semi-annually to evaluate the efficiency and effectiveness of examination planning and scheduling.

C. Team Member Expectations

Team members are responsible for providing the EIC with the supporting documentation to support any recommendations (and discussed with management) before completing their onsite review.⁹ Team memos do not

⁹ Team members can provide examination materials after completing onsite work only with EIC concurrence and the establishment of a defined delivery date.

replace a documented scope, applicable questionnaires, and assessment of risk ratings. At a minimum, the following should be provided to the EIC as applicable:

- Detail of time charged;
- Scope team export file including completed AIRE Scope Module, comments on the final risk ratings, and recommended areas for review (when completing the Scope Module and areas of review, all team members will include their SME area in parenthesis, when applicable, next to their initials in the "Done by" column of the Scope Module);
- Loan Review team export file;
- Appropriate questionnaires;
- Examiner's Findings;
- Document of Resolution (DOR) team export file (including comments in the DOR module on the credit union's actions to address prior DOR items);
- Other work papers to support findings and/or recommended actions.

Before a team examination or supervision contact commences that includes three or more team members (including the EIC), the EIC will communicate individual responsibilities and any additional expectations for documentation to the team members¹⁰ (typically through an email or team memo (Appendix 1-C)). At a minimum, the EIC will include:

- Location of the credit union, hours of operation, dress code, travel considerations (rental cars needed, lodging, etc.);
- Summary of existing and emerging concerns;
- Individual responsibilities and time budgeted; and
- Expected documentation to be provided to the EIC.


D. Examination/Supervision Completion Date and AIRE Upload Requirements

Examiners will enter the examination completion date on the "Completion Information" tab of the EMC in AIRE. The examination/supervision completion date is the day the examiner last charged time to the examination and is required to be within five business days of the latest of the following dates:

¹⁰ "Team member" refers to any participating team member including any specialized examiner (RLS, RCMS, RISO, ISO, CMS, etc.).

- Date last onsite;
- Date of exit meeting; or
- Date of joint conference.

Within one business day of the examination completion date, examiners will upload the AIREs examination report including a completed Scope.

	<p>If the examination completion date exceeds five business days due to items such as conferences, training, annual or sick leave, the examiner will document the circumstance(s) in the Confidential Section.</p> <p>If there is a delay in the AIREs upload, examiners will notify their supervisor and document supervisor concurrence and the reason(s) for exceeding the timeframe in the Confidential Section of the report.</p>
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E. Delivering the Report to the Credit Union Officials

When possible, examiners should deliver the final examination report or insurance review report at the joint conference or exit meeting. For compressed scheduling situations, examiners must deliver the DOR and Examiner's Findings (EF), if applicable, during the joint conference or exit meeting. Management and key officials should be aware of the major deficiencies before the joint conference (refer to Chapter 1, Section 9 for additional information on joint conferences and exit meetings.)

In situations where the examiner is not able to deliver the report at the joint conference or exit meeting, the examiner must mail the report to the credit union within one business day of the examination completion date. If this timeframe cannot be met, the examiner must document supervisor concurrence in the Confidential Section along with the reason for delay.

F. Electronic Copies of Reports

Examiners may provide credit unions with an electronic copy of the examination and supervision contact reports. The electronic copy can either replace or be in addition to the hard copy report depending on the credit union's preference.

The instructions for creating an electronic copy of the examination report are accessible through the AIREs program main menu, Help-Instructions. If an examiner sends the examination report via e-mail, they must use ZixMail, NCUA's secure e-mail program. The instructions for ZixMail are located in the Hi-Tech Manual (under Outlook 2010, ZixMail).

G. AIREs File Size Limitation

The Microsoft Outlook attachment limitation is 30MB for internal email. If an examiner is attempting to upload an AIREs file and it will not upload due to the size limitation, the examiner should contact the OCIO Helpdesk as early as possible. In these rare cases, OCIO will work individually with the examiner to allow for the file to be uploaded which may include decreasing the file size while still preserving the history and integrity of the exam/supervision information.

SSA examiners not using an NCUA.gov mailbox will be limited to 15MB.

H. Required Workpapers

Chapter 20, Appendix 20A, of the Examiner's Guide lists the required AIREs work papers that must be included in examination uploads. Chapter 2 and Chapter 3 include information for the documentation requirements for both onsite and offsite documentation requirements for FCUs and FISCUs. Examiners will include additional work papers completed that contribute to the administrative record including team members' loan exceptions work papers and documentation submitted for other areas reviewed. The AIREs upload file should contain all documentation provided to management in the credit union's formal exam report and documentation produced by the examiner or exam team participants to support the report. Examiners generally should not include documents provided by the credit union unless information cannot be effectively documented elsewhere in the AIREs upload file.

- AIREs Table of Contents: The Table of Contents serves as NCUA's permanent record and documentation as to what was provided to credit union officials. Examiners will use the Table of Contents to organize the report given to the officials. The Table of Contents is a required work paper. Examiners are required to print the final copy of the examination report (using the print examination function within AIREs) **before** creating or uploading their examination file. The AIREs print examination function creates the Table of Contents in a PDF format and ensures the visibility of the Table of Contents in the examination upload file.
- Required Questionnaires: Include all questionnaires required by NCUA Instruction No. 5000.20 (Rev. 4), Risk-Focused Examinations - Minimum Scope Requirements, work papers, and team memoranda (if applicable), in the AIREs file.
- AIREs Share and Loan Download: Examiners are required to request an AIREs share and loan download for every examination. If a credit union will not or cannot provide an AIREs share and loan download, examiners will notify their supervisor while the on-site field work is in process. The SE will work with the examiner on options for obtaining the AIREs download (or an equivalent such as a text file with share and loan information). The examiner should document the options exercised to obtain the download (e.g. contacting other credit unions with the same vendor, contacting the

vendor directly) and concurrence with the SE on the final outcome in the Confidential Section.

I. Deleting AIREs Files

If an examiner needs a previously uploaded AIREs examination/supervision contact deleted, examiners will send a request including the credit union's charter number, effective date, contact type, along with a brief explanation to their region's DOS mailbox and copy their supervisor. After DOS deletes the file, they will notify the examiner and supervisor and indicate when the examiner will be able to re-upload.

J. Documented Secondary Review of CAMEL Ratings

Supervisors will review drafted examination reports prior to finalization by the examiner in cases where a credit union presents higher risk, serious problems, or represents a material potential risk to the NCUSIF. At a minimum, these reviews will be completed on examinations that meet the below criteria before the examiner is permitted to release the final report to the credit union:

- All credit unions with assets greater than \$250 million (effective date); or
- All credit unions with an NCUA proposed or outstanding Letter of Understanding and Agreement (LUA), Preliminary Warning Letter (PWL), Cease and Desist Order (C&D), or Other Discretionary Supervisory Action provided under Prompt Corrective Action.

The supervisor is responsible for reviewing the report to ensure that:

- The scope is well developed and appropriate for the identified and indicated risks;
- All significant risks and problem areas are appropriately identified and communicated;
- Resolution plans are effective and timely for the type and proportion of risk;
- CAMEL and risk ratings appropriately reflect the level and direction of risk; and
- Recurring problem areas are appropriately escalated to more stringent action plans or administrative actions.

Examiners will email to their supervisor a backup of the AIREs exam file for credit unions identified for reviews prior to report issuance no more than five business days after completion of the field work. At a minimum, the backup file must contain the following sections of the report:

- DOR (if applicable);
- Examiner's Findings (if applicable);
- CAMEL and Risk Ratings; and
- Scope Module.

Examiners must receive the Supervisor's Secondary Review prior to releasing the exam report to the credit union officials or management.

Supervisors will perform a CAMEL review and provide the examiner feedback as documented in the Supervisor Evaluation Form within seven business days of receipt of the AIREs backup file. Supervisors will evaluate and document the secondary review of CAMEL ratings on the corresponding form of the Supervisor Evaluation Form and communicate their decision to the examiner via email. In those rare cases where the supervisor and examiner cannot reach consensus on the appropriate CAMEL ratings, the examiner should document in the Confidential Section the CAMEL ratings they were advised to adjust.

K. Limiting Examinations in Process

EICs will not have more than three examinations in process at any time without supervisor approval. Examiners will email their supervisor for concurrence documenting the reason(s) for exceeding the allowable number of examinations in process.

L. EIC Rotation - Limits on Consecutive Years District Assignment

NCUA Instruction No. 5000.19, Examiner-In-Charge Rotation, dated November 23, 2005, describes the current policy for examiner rotation.

Supervisors will ensure adequate rotation of EICs occurs. ARDPs will monitor compliance with this requirement. The assigned ARD may approve exceptions on a case-by-case basis for extraordinary circumstances such as pending merger, liquidation, charter conversion, or resolution of an emerging material problem. The ARD will document all approved exceptions in writing, and the EIC will note said approval in the Confidential Section.

M. Electronic and Hard Copy Field Files

Examiners will maintain electronic field files for credit unions within their district. Examiners will maintain electronic correspondence between the Central Office, Regional Office, credit union, SSA, or any other related party within the electronic files. Upon transferring credit unions to another district, examiners will be responsible for transferring the credit union's electronic files to the new examiner.

If an examiner chooses to maintain hard copy field files, the examiner is responsible for maintaining the field files in accordance with NCUA Instruction No. 13500.09, Security of External Party's Documentation and NCUA Instruction No. 1200.15, Rules and Consequences for Safeguarding Personally Identifiable Information. The field file should not contain confidential or sensitive information, unless properly secured to prevent disclosure to unauthorized parties. The contents of the field file are subject to examiner discretion. In some instances, the credit union may not have any significant problems and there may not be a field file.

N. Minimal AIRES Upload

AIRES 2005 allows for a "Minimal Contact," for uploading contact reports with limited information. This feature is available for off-site supervision. The minimum information required for a minimal contact is:

- CAMEL codes;
- Financial data;
- Time; and
- Completed Information Tab.

If an examiner chooses to download and import historical data, the EMC will display the imported information and the examiner will need to enter the CAMEL codes in the Exam.xls. Additional information regarding minimal contacts can be found in the AIRES 2005 Manual.

9. Confidential Section¹¹

The Confidential Section of the examination report is for NCUA's internal use only. Examiners should document in the Confidential Section any actions taken during the examination not discussed elsewhere in the report.

The Confidential Section is the appropriate place to discuss management's ability and willingness to correct areas of concern, as well as provide details of new or unique programs or services not discussed elsewhere in the report or in the AIRES Scope Module.

Examiners: Examiners will address the following in the Confidential Section:

- The attendees of the joint conference and/or exit meeting;

¹¹ E&I is in the process of developing a new Confidential Section template that will be integrated into AIRES. The template will provide examiners with a listing of the required items for ease and convenience. E&I anticipates the Confidential Section template to be available with the final release of the NSPM.

- Summary of subjects discussed (outside of what can be found in the open section) at the joint conference or exit meeting including agreements reached and acceptance of the DOR;
- Reasons management failed to take corrective action for any previous and outstanding DOR items or agreements relating to safety and soundness and/or plans for escalation of administrative action;
- Explanation of any CAMEL code differences or other differences during joint insurance reviews and joint examinations of federally insured state-chartered credit unions (FISCUs);
- Any approvals or concurrences from their supervisor or ARDP concerning conditions or actions taken during the examination (i.e., reject audit, no LUA with repeat DOR, issuing a PWL, LUA, EIC rotation exceptions, adjustments in CAMEL ratings, MBL waiver violations not presenting a heightened level of risk, etc.). The examiner will include the reasons for the recommendation, the anticipated date the problems will be resolved, the recommended course of action if the problems are not resolved, and the examiner's plans for supervision;
- Any other pertinent information about management in order to maintain a full administrative record (e.g., management's and officials' ability to resolve issues, knowledge level of credit union operations, not providing an AIRES download);
- Any deviations from budgeted hours, documenting supervisor concurrence; and
- Reason why report not completed or uploaded within required timeframes (if applicable).

<i>Reminder!</i>	Remember records, including the Confidential Section can be subpoenaed.
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10. Joint Conferences and Exit Meetings

A joint conference is a meeting of the examiners and a sufficient number (quorum) of the board of directors to conduct official credit union business. A joint conference provides the examiner the opportunity to reach agreements with the board that they will take appropriate action for reducing levels of unwarranted risk in the credit union.

Examiners must hold a joint conference at the end of every examination for CAMEL 3, 4, or 5 credit unions. Examiners will hold a joint conference in a Code 1 or 2 credit union if the credit union board so requests. Otherwise, the examiner may hold an exit meeting, rather than a joint conference, unless substantive concerns exist or if the examiner determines the need for a communication forum. During follow-up examinations, examiners will hold joint conferences for all CAMEL 3, 4, and 5s.

An exit meeting differs from a joint conference in that an exit meeting does not require a quorum of the board attend. Generally, attendance at an exit meeting consists of top management, key staff and possibly one or more officials.

11. Communicating Directly with a Credit Union

A. Informal Communication

Examiners may use e-mail as an informal means of communication with credit unions in place of, or in addition to, telephone calls. Examiners should use ZixMail,¹² NCUA's secure e-mail program, when discussing confidential matters with credit unions through email. Examiners may not share information obtained from a credit union with another credit union (such as sample policies, etc.) without the originator's expressed permission. In addition, examiners will not forward regional/central office email correspondence directly to the credit union.

B. Formal Communication

Formal written communication with credit unions is typically initiated by the examiner and supervisor and processed through the Regional Office. Both Chapters 5 and 6 present common types of written correspondence. The appendixes of this Manual contain many types of templates. These templates contain the minimum documentation standards and should be used as a starting point when preparing credit union correspondence. Staff can also reference the Correspondence Manual for additional information. The following items apply to outgoing correspondence:

- In most cases, the RD's response is addressed to the BOD chair at the credit union's address with a copy to the CEO as appropriate. Correspondence is not typically mailed directly to the home of a BOD member unless there has been a problem with the correspondence being delivered (e.g. there is a question of confidentiality, or if appropriate, in some cases of negative correspondence (like an RDL for significant violations or safety and soundness issues)). When mailing correspondence to the home address of any board member, the outgoing correspondence should be marked confidential and private. In special cases, DOS may mail correspondence to each board member's home or the supervisor may determine if delivering the correspondence in person is appropriate.
- Examiners and supervisors should be copied on all outgoing correspondence. The SSA should be copied on all outgoing FISCU correspondence.
- DOS has the discretion to add to the templates line items such as: cc and bcc recipients, "sent via FedEx – Signature Required", etc.

¹² The instructions for ZixMail are located in the Hi-Tech Handbook (under Outlook 2007, ZixMail)

C. Writing Guidelines

The NCUA is responsible for ensuring that agency personnel prepare documents intended for the public according to plain writing guidelines. Information relating to the Plain Writing Act of 2010 can be found on NCUA's website. The plain writing guidelines used by NCUA personnel can be found at Plain Language.gov. Plain language (also called Plain English) is communication your audience can understand the first time they read or hear it. Plain language is defined by results—it is easy to read, understand, and use. Staff should incorporate the following writing techniques to help achieve this goal:

- Logical organization with the reader in mind
- "You" and other pronouns
- Active voice
- Short sentences
- Common, everyday words
- Easy-to-read design features

The table below includes a checklist staff can reference when preparing written correspondence.

Document Checklist for Plain Language¹³	
✓ written for the average reader	✓ uses base verbs, not nominalizations (hidden verbs)
✓ organized to serve the reader's needs	✓ omits excess words
✓ has useful headings	✓ uses concrete, familiar words
✓ uses "you" and other pronouns to speak to the reader	✓ uses "must" to express requirements; avoids the ambiguous word "shall"
✓ uses active voice	✓ places words carefully (avoids large gaps between the subject, the verb and the object; puts exceptions last; places modifiers correctly)
✓ uses short sections and sentences	✓ uses lists and tables to simplify complex material
✓ uses the simplest tense possible—simple present is best	✓ uses no more than two or three subordinate levels

12. Communicating with Law Enforcement, Outside Audit Firms, or Other Federal Agencies

Examiners (through their supervisor) must refer all inquiries from law enforcement, outside audit firms, or other federal agencies to the region's Division of Supervision.

¹³ The Document Checklist for Plain Language is included on Plain Language.gov. More information about each of these standards can be found here.

RD's should communicate knowledge of any law enforcement investigation to the NCUA Board, OGC, and E&I.

13. New Credit Union Supervision

If an examiner is responsible for a new credit union, the following policies apply:

- Contact the credit union officials shortly after approval of the charter in order to arrange for the initial examination (usually within the first six months of operation);
- Perform a supervision contact within 60 days of initial operations, and within every 120 days thereafter for the first two years;
- Documentation requirements are the same as for follow-up examinations;
- Maintain open communication with the assigned Economic Development Specialist (EDS);
- Document compliance with the Letter of Understanding and Agreement (LUA) or Special Insuring Agreement (SIA) and adherence to the credit union's business plan in the Supplementary Facts section of the report;
- Review all changes in management (officials and key personnel), and determine if changes in officials were approved by the RD and the SSA, if applicable, in accordance with §701.14e of NCUA Rules and Regulations;
- Assess the need for assistance, including enrollment in the National Small Credit Union Program (NSCUP), and the creation of a mentor relationship with an established credit union; and
- Discuss findings and recommendations with management during a joint conference and deliver the appropriate sections of the report to the responsible officials.

The supervisor will provide a summary of the supervision provided, results achieved, and the prognosis for continued successful operations in the regional monthly management report.

14. Critical Case Credit Union Briefings

The term "critical cases" is used to define credit unions that pose the most significant emerging risk to the NCUSIF. Critical case "briefings" describe meetings involving regional management, examiners, and supervisors to discuss the critical cases within the region. The main purpose of these briefings is to allow regional management to stay current on the top critical cases within the region. Critical cases are part of the region's risk management practices and provide regional management an opportunity to evaluate the need for enhanced supervision. This section provides examiners with insight into the

purpose, selection criteria, and processes involved in critical case credit union briefings as well as providing structure on what to expect if critical case credit unions are within their district.

A. Developing the Critical Case List

Regions will develop a critical case listing of the top critical cases in the Region.¹⁴ Regional management will select critical cases based on the following:

- Recommendations from regional management and regional DOS;
- Quarterly risk trending reports reviewed by regional DOS;
- Monthly management reports listing problem cases;
- Internal regional risk reports;
- High Risk Credit Union Pipeline Reports;¹⁵
- Reports provided by E&I flagging select cases; and
- Other approaches at the discretion of the region.

Regional management will compile a critical case list and share the cases with E&I. E&I will review case files and request attendance at selected critical case briefings each year based on critical cases of national significance and to monitor regional risk management approaches.

B. Meeting to Discuss Critical Cases

The RD will hold periodic meetings (at least semi-annually) with examiners to discuss critical cases. The ARDP will attend the meeting. In regions where the Division of Special Actions reports to the ARDO, the ARDO will be required to attend the critical case meetings. Otherwise, the ARDO and DOS Director (or

¹⁴ The frequency of critical case meetings and number of cases may vary based on RD preference and regional discretion.

(b)(8)

DOS representative) may also attend depending on scheduling. E&I will request attendance at select critical case briefings.

The purpose of critical case meetings/briefings is to discuss the case background, present status, prognosis, and supervision plans. For the selected credit unions, the associated supervisor¹⁶ will prepare the meeting agenda and forward it via e-mail to regional DOS mail, with a copy to the ARDP (in the case of regions where the Division of Special Actions reports to the ARDO, the agenda will also be sent to the ARDO) within the timeframe established by the region before the briefing occurs. The Regional Office will notify E&I of all critical case meetings to facilitate participation by E&I, if warranted.

C. Preparing, Sending, and Reporting on Critical Cases

The assigned examiner(s) will prepare and present critical cases at the briefings. The format of the critical case package will be determined by the RD prior to the meeting and will be communicated to examiners at a minimum of ten business days in advance of the meeting. The supervisor will review the package(s) prior to submission to the Regional Office for quality and completeness as well as adherence to established standards.

15. Control Reports

Control reports serve as a mechanism to ensure the agency has a robust examination program that is properly resourced and monitored for adherence to national examination and quality standards.

A. Regional Control Reports

At a minimum, the regions will be responsible for maintaining the following control reports:

- MARS Reports – Regions will ensure MARS data is complete and reconciled each month;
- Budgeting – Regions will review necessary reports and resource budgets monthly to ensure completion and consistency with standards;
- Unresolved Recordkeeping Issues – Regions will be responsible for tracking outstanding recordkeeping concerns within their region's credit unions. Each quarter (at a minimum), the report should be reviewed and updated to reflect the status of the reported problem codes;
- Program Completion Reports;

¹⁶ The process for both SEs and DSAs should typically be the same although based on RD discretion, DSA updates may be more frequent.

- CAMEL 3, 4, 5 Detail, Status, and Exception Reports;
- High Risk Pipeline Report;
- Quarterly PCA Reports; and
- Quality Control Reviews (QCR) Status and Exception Reports.

B. E&I Control Reports¹⁷

E&I will run reports to evaluate the status of the national examination program and evaluate adherence to national standards including:

- Outstanding Recordkeeping Issues;
- Completion Target Exception Reports;
- DOR Tracking Reports to ensure resolution is achieved timely;
- MARS workload and completed examination/supervision contact reports;
- CAMEL 3, 4, and 5 MARS reports;
- Problem Credit Union Reports (3,4,5); and
- Other specialized reports as deemed appropriate.

¹⁷ Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions should ensure their current systems capture the requested information.

Appendix 1-C
Sample Team Memo

NATIONAL CREDIT UNION ADMINISTRATION
REGION X

TO: PE [name] AND EX [name]
CC: SE [name]
FROM: PE [name]
SUBJ: [credit union name] Team Examination
DATE: [date]

We are scheduled to start the team examination of [credit union name] FCU #XXXXXX on [date]. This examination will have an effective date of [effective date]. Here is the list of team members, associated hours for this exam, and scheduled review areas:

- EX [name] -- 32 hours - ALM Review (on-site week of [date])
- EX [name] -- 32 hours - Lending review (on-site week of [date])

You can work anytime from 7am to 7pm at the ABC Office located:
[CU address]
[City, TN Zip]
[Phone number]

The dress code is [type of dress]. [Parking, Travel, and/or Transportation Considerations, Lodging Options, etc.]

I plan to begin work at [time].

The CEO's name is [name].

The following request lists and questionnaires have been provided to the credit union:

- ALM general request list
- IRR and Liquidity questionnaires

*******IF YOU HAVE ADDITIONAL INFORMATION YOU WOULD LIKE THE CU TO PREPARE FOR US, PLEASE LET ME KNOW ASAP.*******

I will provide a backup of the examination to you the first day you are on-site.

Please provide me a memo with the results of your review upon the completion of your work. Please include a section to address each of the topics listed below and any additional topics you feel are necessary.

EXAM HOURS

- Please provide the hours you have worked on this examination, and please indicate whether the time was on or off site.
- Provide me with any recommendations for changes to future budget hours.
- Provide recommendations for changes to the number of participants as well the addition/deletion of any SME's to the job.

SCOPE

- Please provide your input on what the final risk rating should be based on your review.
- Please provide any areas you recommend for review during the next examination.
- Provide the scope team merge file.

OVERVIEW

- Please provide an overview narrative, if applicable.
- Please provide discussion of the topic, indicate what is wrong, and provide guidance on how to address the issue.

DOR

- Please update and comment on all prior DOR items in the DOR module that relate to your area of review.
- Please discuss all DOR items with me prior to discussing them with management.
- After you have discussed the DOR items with me, please discuss with management and assure any questions management may have regarding your DOR items are addressed prior to your departure.
- Provide the DOR team merge file.

EXAMINER'S FINDINGS

- Please provide your Examiner's Findings in an Examiner's Findings document.

CAMEL RATINGS

- Please provide your input on what you feel the CAMEL rating should be for the area you reviewed and provide a brief supporting explanation.

QUESTIONNAIRES

- Complete all required questionnaires related to your area of review and complete optional questionnaires as you deem necessary.

CONFIDENTIAL SECTION

- Please provide me with any information you feel is necessary and appropriate to include in the confidential section.

EXIT MEETINGS

- Schedule all exit meetings as soon as possible to assure all appropriate CU employees and NCUA staff can attend.
- Please discuss all findings with me prior to the exit meeting.
- Please discuss any issues with CU management prior to the meeting so there are no surprises.

******Return all materials provided to you by the credit union back to the appropriate person prior to your departure******

Chapter 2 – Federal Credit Union (FCU) Program and Procedures

NCUA's examination program institutes standards for a high quality examination process and establishes guidelines to:

- Identify and mitigate current and emerging risks to the NCUSIF (NCUSIF);
- Ensure credit unions are in compliance with applicable laws, regulations, and directives;
- Initiate appropriate corrective actions supported by a sufficiently detailed administrative record; and
- Facilitate timely resolution of supervisory concerns.

This chapter explains how examiners will supervise FCUs in their districts. Supervision efforts will vary depending on the size of the credit union, the risk to the NCUSIF, and other circumstances as applicable. Supervision includes, but is not limited to, examinations, follow-up examinations, onsite contacts, offsite contacts, offsite monitoring, and quarterly trending analysis (e.g. 5300 Call Report/FPR Trending). The examination and supervision program is the most important component of managing risk to the NCUSIF and protecting members.

1. Examination Planning

Planning and scoping is an integral component of the risk-focused examination program. An appropriate assessment of risk will result in an effective allocation of resources based on the level and type of risk present in the credit union.

A. Preliminary Assessment

The preliminary risk assessment drives the initial scoping for the risk-based examination. This assessment is documented in the preliminary risk assessment tab of the AIRE Scope Module.

Examiners – Examiners will focus on current and emerging risk indicators and evaluate preliminary risks. At a minimum, examiners will review and document each risk area in the AIRE Scope Module by reviewing the following items:

- The previous examination;
- The most recent FPR and any adverse financial trends in key areas, significant changes in the balance sheet structure, significant growth patterns, and significant changes in loan, investment, or share products;
- The areas of risk triggered by the most recent national and/or regional risk reports for the associated credit union; and

- Any outstanding administrative actions.

Other items to consider include: Regional Office correspondence, regulatory waivers, issues related to the credit union's field of membership, mergers, external audit reports (as applicable), economic information,¹⁸ AIREs standard query reports, and additional prior examinations and supervision contacts.

B. AIREs Exam Scope (Scope Module)

The Scope Module is the permanent record of procedures performed during an examination/supervision contact. All WCC 10 examinations will include the minimum scope requirements noted in NCUA Instruction No. 5000.20 (Rev. 4), Risk-Focused Examinations - Minimum Scope Requirements.

Examiners – Examiners must thoroughly document the areas reviewed, the results, and the recommended action. Comments like "completed" or "inadequate" are not sufficient. Examiners must include a description of the area reviewed and results obtained, regardless of whether references to other work papers are included in the AIREs scope. The Scope Module should be a comprehensive synopsis of what occurred during the examination. A comprehensive scope will enable the examiner of the next examination to become familiar with the history of the credit union in a shorter amount of time. Appendix 2-A provides examples of sufficient scoping detail. When completing the Scope Module and areas of review, all team members will include their SME area in parenthesis, when applicable, next to their initials in the "Done by" column of the Scope Module.

EICs¹⁹ are responsible for the sufficiency of the AIREs Scope. EICs need to continually evaluate the appropriateness of the scope and document procedures commensurate with the size and complexity of the credit union throughout the course of the examination. EICs will expand and/or modify the scope to fully evaluate those areas representing a significant risk or potential risk to the credit union, including:

- New and/or fast growing programs;
- Unusual or negative trends identified in the most recent FPR or quarterly risk reports;
- Unusual member account characteristics (e.g. accrued interest greater than payment, paid ahead loans, negative shares, member concentrations, etc.) often identified by using the AIREs loan and share download;
- Areas identified in the most recent quarterly risk reports;

¹⁸ For additional economic information outside of what may be included in AIREs, examiners can refer to NCUA Instruction No. 5500, dated February 10, 2004 for guidance on using economy.com.

¹⁹ For team exams/supervision contacts, the EIC should complete the scope in advance of the rest of the team's arrival onsite.

- New or increased risk tolerance by management;
- Change in complexity of programs;
- Significant changes in the makeup of the balance sheet;
- Increased concentrations of risk²⁰ relative to net worth and assets; and
- Inadequate strategic/business planning or a shift in the business model.

Examiners should review these plans and determine whether the plans are reasonable and appropriate for the size and complexity of the credit union. Refer to the "Review Areas" worksheet in Exam.xls in AIREs for additional suggested scope areas. Any changes made by the examiner from the preliminary risk assessment to the final risk assessment must be adequately explained to justify the final risk ratings.

E&I – E&I will review, and update when necessary, the established minimum scope requirements in conjunction with changes in key risk indicators, economic conditions and regional concerns by January 1st of each year.

2. Membership Data Information

Membership Data Information will be collected for all federal credit unions in accordance with NCUA Letter 09-FCU-03. Detailed instructions on Membership Data Collection can be found by clicking on the "extract" button on the Completion Information tab within AIREs.

3. FCU Examinations (WCC 10)

NCUA examiners will use WCC 10 for FCU examinations. Examiners are required to include the minimum scope requirements noted in NCUA Instruction No. 5000.20 (Rev. 4), Risk-Focused Examinations - Minimum Scope Requirements for all WCC 10 FCU examinations.

4. FCU Supervision Contacts

Supervision contacts typically fall into three categories: follow-up exams, onsite supervision contacts, and offsite supervision contacts. Examiners can refer to Chapter 12 for a full listing of all the WCC definitions.

²⁰ Concentration risk is a major source of loss for credit unions. Letters to CUs 10-CU-02 (Current Risks in Business Lending and Sound Risk Management Practices), and 10-CU-3 (Concentration Risk) provide comprehensive guidance for evaluating concentration risk.

A. Follow-Up Examinations²¹ for Troubled/Problem FCUs (WCC 22)

Follow-up examinations are more comprehensive than other onsite supervision contacts and require an analysis of data to support the CAMEL ratings and administrative action recommendations. Examiners will support in the scope, or by other means that can be made part of the administrative record, all of the critical problem areas identified during the regular examination. Before uploading an AIRES contact, examiners will indicate on the AIRES Exam Management Console (EMC) whether the supervision contact was a follow-up examination (yes/no button on the Completion Information tab in AIRES). Examiners typically only perform follow-up examinations on CAMEL 3, 4, or 5 credit unions.

At a minimum, examiners will perform a follow-up examination, which must include a joint conference with the board of directors, during the following intervals:

- CAMEL Code 3 – NCUA examiners will perform a follow-up examination at least every 180 days (from completion date to completion date).
- CAMEL Code 4 or 5 - NCUA examiners will perform a follow-up examination at least every 120 days (from completion date to completion date).

Timeframe Exceptions for Follow Up Examinations

Examiners will consult their supervisor and request an extension via email if they cannot complete a follow-up examination within the required time periods. The guidelines for requesting an extension are:

- CAMEL Code 3 - Supervisors must approve extensions for follow-up examinations extending beyond the 180-day timeframe in CAMEL Code 3 credit unions and forward their approval to the region's DOS mailbox. The completion time frame may not exceed 240 days based on supervisor approval. The ARDP or ARDO, as appropriate, must approve and document in writing any additional extensions and associated considerations. Any request for an extension of the 180-day requirement must include information demonstrating how the FCU will not represent increased risk to the NCUSIF resulting from the extended completion time frame.
- CAMEL Code 4 or 5 - The ARDP or the ARDO, as appropriate, must approve and document in writing extensions for follow-up examinations extending beyond the 120-day timeframe in CAMEL Code 4 or 5 credit unions. Any extension beyond the 120-day requirement must include

²¹ With the creation of the NSPM, a new type of onsite supervision contact is now defined as a "follow up examination." This is not a new practice in some regions, but to create national consistency, a follow-up examination is a type of onsite supervision contact applying to both FCUs and FISCUs.

information demonstrating that the FCU will not represent increased risk to the NCUSIF resulting from the extended completion time frame.

Any approvals to exceed the above listed timeframes require the supervisor/ARDP, as applicable, to forward their approval via email to DOS with supporting documentation. All time frame extension approvals will include a projected completion date.

Each region will establish monitoring procedures for follow-up examinations and timeframe extensions, until a national system is developed and implemented. The ARDP will review the applicable report(s) and share them with the supervisors to evaluate appropriateness and timeliness of completion contacts to ensure a quality and timely supervision program.

Follow-Up Examination Documentation

Examiners document a follow-up examination by uploading an AIRES file, and charging time to WCC 22. At a minimum, the AIRES upload must include:

- AIRES historical download, Exam.xls, and all critical input areas;
- Sections within the Scope Module that were the subject of the follow-up examination including pertinent risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, "n/a" or "DNR" (did not review) will suffice;
- Documentation regarding compliance with any outstanding administrative actions (LUA, PWL, etc.,) and/or Net Worth Restoration Plan (NWRP) / Revised Business Plan (RBP) in the Supplementary Facts;
- Documentation of compliance or non-compliance with previous DOR items and updated DOR module;
- Written narrative report provided to the credit union (e.g. Examination Overview, Examiner's Findings, etc.);
- Completed EMC including all questions and the date of the exit meeting and/or joint conference (a joint conference is required for all CAMEL 3, 4, and 5s, unless the supervisor approves an exception. In the event a quorum is not present, examiners will instruct the credit union's management to note it in the board minutes and provide documentation to the examiner regarding whether management adopted the DOR at the next board meeting);

- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 (Appendix 1-A);
- Consumer Compliance Violation (CCV) module if applicable;
- Completed Confidential Section; and
- Sufficient AIREs work papers to support the scope of review and the conclusions drawn and any other information necessary to support the scope and time spent on the contact.

Examiners are required to issue a report to the credit union for follow-up examinations. Examiners will deliver the report as they would an examination report (as detailed in Chapter 1). Examiners must discuss required corrective actions, administrative actions, and provide relevant supporting sections of the report to the officials during the joint conference (e.g., DOR, Examiner's Findings, and other appropriate work papers such as the Supplementary Facts).

B. Onsite Supervision Contacts (WCC 22)

An onsite supervision contact is more limited in scope than a follow-up examination. Examiners will typically perform an onsite supervision contact to review one major problem area, to hold a joint conference if it could not be completed as part of the exam, and/or to review the credit union's compliance with a DOR, etc.

Examiners will perform onsite supervision contacts as needed between regular or follow-up examinations based on the nature and severity of the problems or as their supervisor requires. Examiners will need to make each contact a results-oriented contact designed to achieve corrective action.

Credit unions with significant recordkeeping concerns require an onsite supervision contact focused on ensuring adequate attention to and correction of problems. The examiner will complete a follow up supervision contact within 60 days from the last contact's completion date. Examiners will continue to make on-site contacts every 60 days until resolution of all identified problems. The supervisor must approve in writing any extensions beyond 60 days with notification to the ARDP and DOS. The examiner must document any extensions in the Confidential Section. Refer to Chapter 5 for additional guidance for performing supervision contacts for credit unions with significant recordkeeping concerns.

Onsite Supervision Contact Documentation

Examiners document an onsite supervision contact by uploading an AIREs file. At a minimum, the AIREs upload must include:

- AIREs historical download, Exam.xls, and all critical input areas;
- Sections within the Scope Module that were the subject of the contact including pertinent final risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, "n/a" or "DNR" (did not review) will suffice;
- Written narrative report provided to the credit union if applicable (e.g. Examination Overview, Examiner's Findings, etc.). Use the Confidential Section to document additional information when a report is not provided to the credit union and in place of a supervision contact memo;
- Completed EMC;
- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 (Appendix 1-A); and
- Any other information necessary to support the scope and time spent on the contact (e.g. updated and completed DOR module if focus of contact was to review compliance with DOR items, completed Consumer Compliance Violation (CCV) Module if focus was to review compliance violations, etc.).

Examiners will discuss their findings and recommendations during an exit interview and issue a written report to the officials if the contact results in required action or changes are made to CAMEL or risk ratings.

C. Offsite Supervision Contacts (WCC 27)

Offsite supervision is conducted somewhere other than at the credit union. At times, examiners will perform offsite supervision to follow up on outstanding concerns, review the credit union's response to a DOR, review monthly financial and/or board packages, respond to regional or national requests regarding credit unions in their district, or otherwise supervise, counsel, or interact with the credit union remotely (e.g., phone, email).


Offsite Supervision Contact Documentation

Offsite Contacts Eight Hours or More - A minimal AIREs upload or a "minimal contact" is required for all WCC 27 offsite contacts of eight hours or more. Examiners document an offsite supervision contact of eight hours or more by uploading a "Minimal Contact" report in AIREs and charging time to WCC 27. At a minimum, the AIREs upload must include:

- Completed EMC with documentation of the contact scope, progress, conclusions, recommendations, etc. in either the "Examiner Comments"

section on the Completion Information tab of the EMC or, if more room is needed, in the Executive Summary or Supplementary Facts.

An AIRES upload with a completed Scope Module for offsite supervision is only required for a material change in risk ratings. Otherwise, the Scope Module is optional.

	<p>A minimal upload excludes Word and Excel files. Therefore, an examiner may need to bypass the "minimal upload" if they would like to include these types of documents in the upload.</p>
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Offsite Contacts Less Than Eight Hours - Time spent performing offsite supervision in increments less than eight hours for the same credit union should be aggregated and uploaded on a quarterly basis. If the aggregate time charged in a quarter is less than eight hours, an AIRES upload is not required.

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D. Monthly Financial Monitoring (WCC 27)

Examiners must trend monthly financial data for all troubled institutions where the financial condition is a concern and the FCU represents significant risk to the NCUSIF (as in cases of large, troubled institutions). Examiners will charge this type of offsite supervision to WCC 27 and will upload a Minimal Contact.

Examiners should make every effort to receive monthly financials directly from the credit union. For example, a section of the DOR could request financial and/or board packets be sent on a monthly basis to the examiner. The supervisor will on a case by case basis:

- Notify the FCU when there is a change in district assignment or the monthly financial data is no longer needed; and
- Determine the format of the examiner's analysis and reporting requirements.

E. Processing of 5300 Reports and Quarterly Trending for FCUs (WCC 20)

Examiners will perform quarterly offsite supervision while reviewing the 5300s, risk reports, FPRs, and other offsite monitoring tools for their district. Examiners will use WCC 20 for FCU reviews. Refer to Chapter 1 for more information on quarterly trending.

Chapter 3 - FISCU Program and Procedures

The State Supervisory Authority (SSA) is the primary regulator for FISCUs whereas; NCUA is responsible for managing risk to the NCUSIF. Supervision efforts at FISCUs will vary depending on the size of the credit union, the risk to the NCUSIF, and other circumstances as applicable. Supervision includes, but is not limited to, examinations, follow-up examinations, onsite contacts, offsite contacts, offsite monitoring, and quarterly trending analysis (e.g. 5300 Call Report/FPR Trending). NCUA's FISCU examination program institutes standards for a high quality examination process and establishes guidelines to:

- Empower staff to work collaboratively with each SSA to assess the financial and operational condition of FISCUs;
- Identify, prioritize, and mitigate current and emerging risks to the NCUSIF;
- Ensure credit unions comply with applicable laws, regulations, and directives;
- Initiate appropriate corrective actions supported by a sufficiently detailed administrative record; and
- Facilitate timely resolution of supervisory concerns.

FISCUs sign an Application and Agreement for Insurance and agree to comply with NCUA Rules and Regulations Part 741 when applying for federal share insurance. The Document of Cooperation (DOC) between the National Association of State Credit Union Supervisors (NASCUS) and NCUA is the overarching document laying out the principles and the relationship with SSAs and the insurance review process.

Each region maintains an operating agreement with each individual state. The operating agreements outline the method and procedures to monitor FISCUs for insurance risk. Regions will document any changes to procedures or any special arrangements made with an individual state in an addendum that NCUA's Office of General Counsel will review.

This chapter explains how examiners will supervise FISCUs in their districts and identifies the different types of FISCU examination and supervision options available for examiners. The examination and supervision program is the most important component of managing risk to the NCUSIF and protecting members.

1. Communication with the SSA

Open communication between NCUA and the SSA is critical to ensure a robust and effective management of risk to the NCUSIF posed by FISCUs.


A. Supervisor Responsibilities

The NCUA supervisor's interaction with the SSA is a critical link in this relationship. Therefore, the supervisor will be the primary party responsible for maintaining open and effective communication. The supervisor will maintain both formal and informal communication with the SSA. The supervisor will conduct

such meetings as necessary to establish and maintain a positive relationship. However, in those states with few state-chartered credit unions or strong FISCU supervision programs, less frequent and/or more informal communication may be sufficient. Regardless of the circumstances, supervisors should meet face-to-face with SSAs at least annually. The meetings will focus on scheduling, supervision, credit union problem resolution, and addressing issues between respective examiners.

In addition to the face-to-face meetings, the supervisor will maintain phone and email contacts with the SSA for complex or problem credit unions (e.g., credit unions >\$250 million in assets, credit unions exhibiting negative trends or insurability concerns, credit unions with a composite CAMEL rating of 4 or 5, and credit unions with a composite CAMEL rating of 3 or below which in the supervisor's judgment present a material risk to the NCUSIF).

Each December, supervisors will provide the SSA with a list of credit unions NCUA plans to conduct an examination/supervision contact. The supervisor will state the reason for NCUA going onsite and may expand or reduce the list throughout the year, as new financial data is available. This will eliminate unwelcome surprises and enable the SSA to plan for NCUA participation into their schedules.

	NCUA reserves the right to go into any FISCU as frequently as warranted, based on risk to the NCUSIF, and may conduct an independent onsite contact when unable to coordinate a joint contact with the SSA. NCUA will notify the SSA prior to initiating any such contact and share the report with the SSA prior to submission to the FISCU.
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B. Regional Director (RD) and Associate Regional Director (ARDP) Responsibilities

The RD or designated ARDP will meet at least annually with the SSA. The meetings will focus on the operating agreement, discussing roles, responsibilities, and expectations for NCUA and the SSA.

2. NCUA's FISCU Program

A. Disclosure of NCUA CAMEL and Risk Ratings

The examiner will provide the NCUA assigned CAMEL ratings (composite and components) to the SSA and disclose the ratings to the credit union (using the CAMEL Disclosure in FISCU's worksheet within Exam.xls). NCUA Instruction No. 5020, Disclosing CAMEL Ratings to Federally Insured State Credit Unions (FISCU's) establishes the procedures examiners must follow to ensure the SSA and the FISCU know and understand NCUA's assignment of risk.

B. NCUA Onsite Presence Criteria

Onsite participation (including joint examinations, insurance reviews, and onsite supervision contacts) in FISCUs is necessary to effectively assess conditions that may pose a risk to the NCUSIF. For FISCUs greater than \$250 million in assets, NCUA will participate on annual examinations with the SSA or conduct insurance reviews. The RD will determine the onsite participation plans for FISCUs below \$250 million in assets as part of the annual resource budget process. Since SSAs vary in their approach to onsite supervision between full examinations, the degree to which each region can utilize SSA examination and supervision work will also vary.

NCUA will notify the SSA of FISCUs selected for onsite contacts based upon quarterly statistical criteria and asset size. Each Regional Office will provide the specific criteria and reports used in making these selections to the state to ensure their awareness of which credit unions NCUA will select for an onsite contact.

C. Examination and Supervision Planning and Scoping

Planning and scoping is an integral component of the risk-focused examination program. An appropriate assessment of risk will result in an effective allocation of resources based on the level and type of risk present in the credit union.

D. Preliminary Risk Assessment

The preliminary risk assessment drives the initial scoping for the risk-based examination. Examiners document their assessment in the preliminary risk assessment tab of the AIRE Scope Module.

Examiners will focus on current and emerging risk indicators and evaluate preliminary risks. At a minimum, examiners will review and document each risk area in the AIRE Scope Module by reviewing the following items:

- The previous examination;
- The most recent FPR. Discuss any adverse financial trends in key areas, significant changes in the balance sheet structure, significant growth patterns, and significant changes in loan, investment, or share products;
- The areas of risk triggered by the most recent national and/or regional risk reports for the associated credit union;
- Any outstanding administrative actions; and

- Other relevant items such as Regional Office correspondence, regulatory waivers, mergers, economic information,²² AIREs standard query reports, and additional prior examinations and supervision contacts.

E. AIREs Scope

The scope is the permanent record of procedures performed during an examination or supervision contact. Examiners must thoroughly document the areas reviewed, the results, and the recommended action. Comments like "completed" or "inadequate" are not sufficient. Examiners must include a description of the area reviewed and results obtained, regardless of whether references to other work papers are included in the AIREs scope. The Scope Module should be a comprehensive synopsis of what occurred during the examination or supervision contact. A comprehensive scope will enable the examiner of the next examination to become familiar with the history of the credit union in a shorter amount of time. Appendix 2-A provides examples of sufficient scoping detail. When completing the Scope Module and areas of review, all team members will include their SME area in parenthesis, when applicable, next to their initials in the "Done by" column of the Scope Module.

EICs²³ are responsible for the sufficiency of the AIREs Scope. EICs need to evaluate the appropriateness of the scope and document procedures commensurate with the size and complexity of the credit union throughout the course of the examination or supervision contact. EICs will expand and/or modify scope procedures to evaluate those areas representing a significant risk or potential risk to the credit union, including:

- New and/or fast growing programs;
- Unusual or negative trends identified in the most recent FPR or quarterly risk reports;
- Unusual member account characteristics (e.g. accrued interest greater than payment, paid ahead loans, negative shares, member concentrations, etc.), often identified by using the AIREs loan and share download;
- Areas identified in the most recent quarterly risk reports;
- New or increased risk tolerance by management;
- Change in complexity of programs;
- Significant changes in the makeup of the balance sheet;

²² For additional economic information outside of what may be included in AIREs, examiners can refer to NCUA Instruction No. 5500, dated February 10, 2004 for guidance on using economy.com.

²³ For team exams/supervision contacts, the EIC should complete the scope in advance of the rest of the team's arrival onsite.

- Increased concentrations of risk²⁴ relative to net worth and assets; and
- Inadequate or lack of strategic/business planning.

Examiners will review these plans and determine whether the plans are reasonable and appropriate for the size and complexity of the credit union. Refer to the "Review Areas" worksheet in Exam.xls in AIREs for additional suggested scope areas. Examiners must adequately explain any changes from the preliminary risk assessment to the final risk assessment to justify the final risk ratings.

F. NCUA-SSA Joint Scoping

Scoping for FISCO joint examinations and contact may vary and will consider the relationship with the SSA. Meeting(s) with the SSA examiner to establish NCUA's scope and support resources will be held prior to or at the start of fieldwork. The meeting may be a telephone contact or via secure email. The examiner responsible for setting up the meeting will depend on the working arrangement with each SSA. The examiner's objective of the scoping meeting is to:

- Discuss the issues initiating the contact;
- Discuss any new information;
- Define operational and financial concerns; and
- Establish review areas.

NCUA's role in conducting joint examinations and contacts is limited to significant risk areas and compliance with laws and regulations for which NCUA has enforcement authority. When a review reveals additional safety and soundness concerns, examiners will expand the scope and review time in consultation with their supervisor. If agreements cannot be reached regarding NCUA's participation, including expansion of the scope, the NCUA examiner will contact their supervisor prior to or during the examination, who will discuss the matter with the SSA office. Supervisors will request ARDP involvement in the event the supervisor and the SSA office cannot resolve the issue.

When completing the Scope Module and areas of review, all NCUA team members will include their SME area in parenthesis, when applicable, next to their initials in the "Done by" column of the Scope Module.

²⁴ Concentration risk is a major source of loss for credit unions. Letters to CUs 10-CU-02 (Current Risks in Business Lending and Sound Management Practices), and 10-CU-3 (Concentration Risk) provide comprehensive guidance for evaluating concentration risk.

3. Types of FISCO Examinations (WCC 11)

NCUA examiners will create a WCC 11 for both joint examinations and insurance reviews. All Work Classification Code (WCC) 11 joint examinations and insurance reviews will include the minimum scope requirements noted in NCUA Instruction No. 5000.20 (Rev. 4), Risk-Focused Examinations - Minimum Scope Requirements. E&I will review, and update when necessary, the established minimum scope requirements in conjunction with changes in key risk indicators, economic conditions and regional concerns by January 1st of each year.

A. Joint Examinations (WCC 11)

The state examiner is the EIC for joint examinations unless otherwise agreed to by the SSA. NCUA examiners have the responsibility to ensure WCC 11 exams meet the minimum scope requirements specified in NCUA Instruction 5000.20. In the Scope Module, the NCUA EIC will note which minimum scope steps the SSA performed. The NCUA EIC will ensure appropriate completion of the scope steps (as they would for any team member). If the work is adequate, the NCUA EIC can accept the work. If the SSA does not use AIREs and/or the examiner feels the scope will not be adequately completed by the SSA, the NCUA EIC will note this in their scope and document the SSA's work to the best of their ability (including possibly using the team merge function in AIREs to get the SSA's exam scope into the NCUA AIREs upload).

NCUA will make every effort to schedule joint examinations with the SSA in order to streamline the process and facilitate networking and cooperation between the two agencies. If NCUA and the SSA cannot schedule a joint examination, NCUA will conduct an insurance review.

Joint Examination Documentation

For joint examinations, the final examination report will usually be a joint report, which encompasses both NCUA and SSA recommendations. If necessary, NCUA may issue an independent report. NCUA will notify the SSA of plans to issue a separate report prior to issuance to the FISCO.



In April 2011, a change to AIREs allows both an NCUA examiner and SSA examiner to upload a scope workbook for a WCC 11 with the same effective date. However, problem codes and/or CCV Module entries may still be problematic when trying to upload the exam.

In the event an NCUA examiner cannot upload their exam due to the SSA's upload with the same effective date (problem codes and/or CCV Module conflicts), examiners will need to change the effective date by one day in order to upload the exam (e.g. 12/31/11 effective

date will need to be changed to 1/1/2012 to upload the exam).

NCUA examiners must upload their own WCC 11 examination report to document the work performed by NCUA. The WCC 11 upload also serves to identify any discrepancies between information provided to the SSA for inclusion in the joint report. For WCC 11 Joint Examinations, NCUA examiners need to upload:

- NCUA-developed standard examination documents provided to the SSA such as: Overview commentary, DOR, and Examiner's Findings;
- Sufficient AIREs work papers to support the scope of review and conclusions;
- Completed Scope Module for areas reviewed;
- Indication of compliance or non-compliance with previous DOR, LUA, NWRP/RBP items or agreements relating to safety and soundness; and
- Completed Confidential Section including:
 - Discrepancies between the SSA-issued report and agreed-upon corrective action items, if applicable;
 - Follow-up with the SSA addressing any concerns with the SSA report, including discrepancy of corrective action items or lack of emphasis regarding NCUA concerns.

Joint Conferences

If the SSA plans to hold a joint conference, the NCUA examiner will attend and participate in the meeting. If the SSA does not plan to hold a joint conference, the NCUA examiner must hold a joint conference for all CAMEL 3, 4, and 5s. In the event a quorum is not present, examiners will instruct the credit union's management to note it in the board minutes and provide documentation to the examiner regarding whether management adopted the DOR at a subsequent meeting. NCUA examiners will notify their supervisor of the date and time of the joint conference at least three business days in advance of holding the joint conference. The NCUA supervisor will notify the SSA staff of the date of the joint conference and invite them to participate.

B. Insurance Reviews (WCC 11)

The NCUA examiner is the EIC for all insurance reviews. As such, it is NCUA's responsibility to ensure completion of the AIREs examination procedures and work papers.

The scope of an insurance review will focus on concerns with safety and soundness. Examiners will complete the minimum examination scope requirements (detailed in NCUA Instruction No. 5000.20 (Rev. 4), Risk-Focused Examinations - Minimum Scope Requirements, concentrating on areas of risk, including compliance with NCUA Rules and Regulations and other regulations that may represent a risk to the NCUSIF if the credit union failed to comply (see Chapter 26 of the Examiner's Guide).

Insurance Review Documentation

At a minimum, documentation of an insurance review will include:

- Completed Scope Module;
- Indication of compliance or non-compliance with previous DOR, LUA, NWRP/RBP items or agreements relating to safety and soundness;
- Completed DOR module in AIREs, if applicable;
- Consumer Compliance Violation (CCV), if applicable;
- Status and management's acceptance of current DOR;
- Completed Confidential Section; and
- Written narrative report provided to credit union and SSA.

Joint Conferences

NCUA examiners must hold a joint conference for all CAMEL 3, 4, and 5s. In the event a quorum is not present, examiners will instruct the credit union's management to note it in the board minutes and provide documentation to the examiner regarding whether management adopted the DOR at a subsequent meeting. NCUA examiners will notify their supervisor of the date and time of the joint conference at least three business days in advance of holding the joint conference. The NCUA supervisor will notify the SSA staff of the date of the joint conference and invite them to participate.

If requested, the NCUA EIC will provide a copy of examination work papers outlining corrective actions and any related handouts to the SSA prior to meeting with credit union officials with the goal of allowing sufficient time for SSA review and feedback prior to the meeting. As a courtesy, the SSA should also have an opportunity to review the finalized complete insurance review report prior to issuance to the credit union. However, issuance of the report is at NCUA's discretion.

4. Supervision Contacts

NCUA supervises FISCUs, based on the risk to the NCUSIF, through onsite contacts and offsite monitoring of statistical financial reports, etc. FISCUs presenting an increased insurability risk will receive onsite supervision contacts. The EIC and supervisor, in consultation with the ARDP, will determine the frequency and timing of onsite supervision contacts. Onsite contacts may be appropriate for focused reviews of identified risks, reduced or limited participation in a contact of a FISCU under \$250 million in assets, or for ongoing supervision of problem credit unions.

NCUA will make every effort to coordinate joint NCUA/SSA contacts but reserves the right to perform independent onsite contacts. For instance, if NCUA suspects fraud at a credit union, then an immediate onsite contact will be necessary.

NCUA may perform independent onsite contacts when necessary due to scheduling issues. NCUA will offer to provide the SSA a draft copy of solo NCUA contact reports prior to issuance to the FISCU. The SSA may also perform solo onsite supervision contacts. If the SSA issues a report, the NCUA examiner has the option of reviewing the SSA supervision reports and charging offsite supervision time to WCC 28.

NCUA considers the timing of the next SSA examination when scheduling onsite supervision. However, if a timely joint contact is not possible, NCUA may need to make an onsite contact independent of the SSA. The NCUA supervisor is responsible for contacting the SSA if onsite supervision is necessary prior to the next scheduled examination. If the NCUA supervisor and SSA cannot reach an agreement regarding necessary action, the supervisor will contact the ARDP who will further discuss the concerns with the SSA and make necessary arrangements either for a joint contact or an independent NCUA contact.

A. Follow-Up Examinations for Troubled/Problem FISCUs (WCC 23)

Follow-up examinations are more comprehensive than other onsite supervision contacts and require an analysis of data to support the CAMEL ratings and administrative action recommendations.

Follow-Up Examination Timeframes

At a minimum, examiners will perform a follow-up examination, which must include a joint conference with the board of directors, when the credit union is a:

- CAMEL Code 3 FISCU – In FISCUs with > \$250 million in assets, NCUA examiners will perform a follow-up examination in conjunction with the SSA at least every 180 days (from completion date to completion date).
- CAMEL Code 4 or 5 – In FISCUs with > \$250 million in assets, NCUA examiners will perform a follow-up examination in conjunction with the SSA at least every 120 days (from completion date to completion date).

In FISCUs < \$250 million in assets, the Regional Directors have authority to determine the risk priority needs of a follow-up examination and establish an alternate schedule based on regional risk priorities and impact to the NCUSIF.

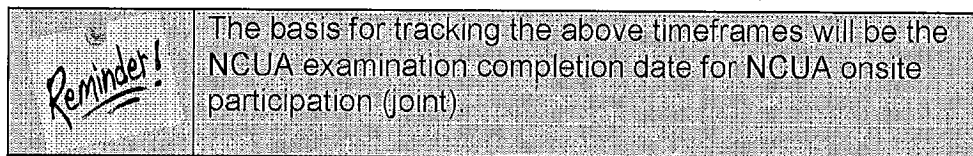
Examiners will consult their supervisor and request an extension via email if they cannot complete a follow-up examination within the required time periods. The guidelines for requesting an extension are:

- CAMEL Code 3 with >\$250 million in assets – Supervisors must approve extensions for follow-up examinations extending beyond the 180-day timeframe in CAMEL Code 3 credit unions with >\$250 million in assets and forward their approval to the region's DOS mailbox.

The completion time frame may not exceed 240 days based on supervisor approval. The ARDP or ARDO, as appropriate, must approve any additional extensions. Any request for an extension beyond the 180-day requirement must include information demonstrating how the FISCU will not represent increased risk to the NCUSIF resulting from the extended completion time frame.

- CAMEL Code 4 or 5 with >\$250 million in assets – The ARDP or the ARDO, as appropriate, must approve extensions for follow-up examinations extending beyond the 120 day timeframe in CAMEL Code 4 or 5 credit unions with >\$250 million in assets. Any request for an extension beyond 120 days must include information demonstrating that the FISCU will not represent increased risk to the NCUSIF resulting from the extended completion time frame.

Any approvals to exceed the above listed timeframes require the supervisor/ARDP, as applicable, to forward their approval via email to DOS with supporting documentation. All time frame extension approvals will include a projected completion date.



Each region will establish monitoring procedures for FISCU follow-up examinations and timeframe extensions similar to what is required for supervision of FCUs. The ARDP will review the applicable report(s) and share them with their supervisors to evaluate appropriateness and timeliness of completion contacts to ensure a quality and timely supervision program.

Follow-Up Examination Documentation

Examiners will support in the scope, or by other means that can be part of the administrative record, all of the critical problem areas identified during the regular examination. Before uploading an AIREs contact, examiners will indicate on the AIREs Exam Management Console (EMC) whether the supervision contact was a follow-up examination (yes/no button on the Completion Information tab in AIREs). Examiners need to upload a completed Scope Module and sufficient AIREs work papers to support the scope of the review and conclusions.

The administrative record for FISCUs also needs to be comparable to FCUs, including maintenance of a Supervision Chronology Report (Appendix 1-A) as detailed in Chapter 1 of this Manual.

All follow-up examinations will include a report to the FISCU. The final report may either be a joint report with the SSA or a stand-alone NCUA report. NCUA examiners must upload their own WCC 23 report to document the work performed by NCUA. The WCC 23 upload also serves to identify any discrepancies between information provided to the SSA for inclusion in the joint report. For WCC 23 follow-up examinations, examiners need to upload:

- AIREs historical download, Exam.xls, and all critical input areas;
- Sections within the Scope Module that were the subject of the follow-up examination including pertinent risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, "n/a" or "DNR" (did not review) will suffice;
- Sufficient AIREs work papers to support the scope of review and the conclusions drawn;
- Documentation regarding compliance with any outstanding administrative actions (LUA, PWL, etc.,) and/or new worth restoration plan (NWRP) / revised business plan (RBP) in the Supplementary Facts;
- Documentation of compliance or non-compliance with previous DOR items and updated DOR module;
- Written narrative report provided to the credit union (or to the SSA to include in their report if applicable) (e.g. Examination Overview, Examiner's Findings, etc.);
- Completed EMC including all questions and the date of the exit meeting and/or joint conference (a joint conference is required for all CAMEL 3, 4, and 5s, unless the supervisor approves an exception. In the event a quorum is not present, examiners will instruct the credit union's management to note it in the board minutes and provide documentation to

the examiner regarding whether management adopted the DOR at the next board meeting);

- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 (Appendix 1-A);
- Consumer Compliance Violation (CCV) module if applicable;
- Completed Confidential Section including:
 - Discrepancies between the SSA-issued report and agreed-upon corrective action items, if applicable;
 - Follow-up with the SSA addressing any concerns with the SSA report, including discrepancy of corrective action items or lack of emphasis regarding NCUA concerns, if applicable; and
- Any other information necessary to support the scope and time spent on the contact.

When the SSA issues the report to the credit union, the NCUA EIC will work with the SSA to ensure the report includes required corrective actions, administrative actions, and provide relevant supporting sections of the report to the officials during the joint conference (e.g., DOR, Examiner's Findings, and other appropriate work papers such as the Supplementary Facts). The NCUA EIC will follow up to ensure the SSA issues the report timely. In the event the SSA does not issue a report as previously agreed or if the report is not timely, the NCUA EIC will notify = their supervisor and plan to issue their own report (as discussed in the paragraph below).

When NCUA issues the report to the credit union, the NCUA EIC will deliver the report as they would an examination report (as detailed in Chapter 1). Examiners must discuss required corrective actions, administrative actions, and provide relevant supporting sections of the report with the officials during the joint conference (e.g., DOR, Examiner's Findings, and other appropriate work papers such as the Supplementary Facts).

B. Onsite Supervision Contacts (WCC 23)

An onsite supervision contact is more limited in scope than an examination or a follow-up examination. Examiners will typically perform an onsite supervision contact to review targeted risk area(s), to hold a joint conference if it could not be completed as part of the exam, and/or to review the credit union's compliance with a DOR, etc.

Onsite Contact Timeframes

Examiners will perform onsite supervision contacts as needed between regular or follow-up examinations based on the nature and severity of the problems or as their supervisor requires. Examiners will need to make each contact a results-oriented contact designed to achieve corrective action. The NCUA EIC or supervisor will coordinate with the SSA as appropriate.

Credit unions with significant recordkeeping concerns require an onsite supervision contact focused on ensuring adequate attention to and correction of problems. The examiner will complete a follow up supervision contact for within 60 days from the last contact's completion date. Examiners will continue to make on-site contacts every 60 days until resolution of all identified problems. The supervisor must approve any extensions beyond 60 days with notification to the ARDP and DOS. The examiner must document any extensions in the Confidential Section.

The NCUA EIC in consultation with their supervisor will determine whether to accept the SSA's limited scope onsite contacts to resolve recordkeeping problems in place of an NCUA onsite contact. When review of an SSA report (WCC 26 Review) discloses material recordkeeping problems, the examiner will contact their supervisor and the SSA to determine if an onsite contact is necessary. Refer to Chapter 5 for additional guidance for performing supervision contacts for credit unions with significant recordkeeping concerns.

Onsite Contact Documentation

Examiners document an onsite supervision contact by uploading an AIREs file, charging time to WCC 23. Examiners need to upload a completed Scope Module and sufficient AIREs work papers to support the scope of review and conclusions. At a minimum, the AIREs upload must include:

- AIREs historical download, Exam.xls, and all critical input areas;
- Sections within the Scope Module that were the subject of the contact including pertinent final risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, "n/a" or "DNR" (did not review) will suffice;
- Written narrative report provided to the credit union if applicable (e.g. Examination Overview, Examiner's Findings, etc.). Use the Confidential Section to document additional information when a report is not provided to the credit union and in place of a supervision contact memo;
- Completed EMC;

- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 (Appendix 1-A); and
- Any other information necessary to support the scope and time spent on the contact (e.g. updated and completed DOR module if focus of contact was to review compliance with DOR items, completed Consumer Compliance Violation (CCV) Module if focus was to review compliance violations, etc.).

Examiners will discuss their findings and recommendations during an exit interview and issue a written report to the officials if the contact results in required action or changes to CAMEL or risk ratings.

C. Offsite Supervision Contacts (WCC 28)

Offsite supervision of FISCUs may be necessary in a variety of situations. Examiners conduct offsite supervision somewhere other than at the credit union. Offsite supervision of FISCUs may entail review of SSA supervision contacts completed between examinations (we asked the SSAs to supply the Regional Office copies of reports for any follow-up or supervision contacts. The Regional Office will send the district examiner a copy of all reports and correspondence received). Offsite supervision may also be necessary to perform a more detailed review of financial statements or progress in resolving outstanding issues from a prior examination that do not warrant onsite supervision. Additional examples of FISCU offsite supervision include reviews/monitoring of CAMEL 4/5 FISCUs, FISCUs with outstanding LUAs or NWRPs, and large CAMEL 3 FISCUs with strategic and/or financial concerns. The timing and scope of offsite supervision is at the discretion of examiners and their supervisor.

Documentation Requirements for Offsite Contacts Eight Hours or More

A minimal AIREs upload or a "minimal contact" is required for all WCC 28 offsite contacts of eight hours or more. Examiners document an offsite supervision contact of eight hours or more by uploading a "Minimal Contact" report in AIREs and charging time to WCC 28. At a minimum, the AIREs upload must include:

- Completed EMC with documentation of the contact scope, progress, conclusions, recommendations, etc. in either the "Examiner Comments" section on the Completion Information tab of the EMC or in the Executive Summary or Supplementary Facts.

An AIREs upload with a completed Scope Module for offsite supervision is only required for a material change in risk ratings. Otherwise, the Scope Module is optional.



A minimal upload excludes Word and Excel files. Therefore, an examiner may need to bypass the "minimal upload" if they would like to include these types of documents in the upload.

Documentation Requirements for Offsite Contacts Less Than Eight Hours

Examiners will aggregate time spent performing offsite supervision in increments less than eight hours for the same credit union and upload to AIREs on a quarterly basis. If the aggregate time charged in a quarter is less than eight hours, an AIREs upload is not required.

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D. Monthly Financial Monitoring (WCC 28)

Examiners must trend monthly financial data for all troubled institutions where the financial condition is a concern and the FISCO represents significant risk to the NCUSIF (as in cases of large, troubled institutions). Examiners will charge this type of offsite supervision to WCC 28 and will upload a Minimal Contact.

Examiners will make every effort to receive monthly financials directly from the credit union. For example, a section of the DOR could request financial and/or board packets be sent on a monthly basis to the respective SSA and NCUA examiner. If the examiner does not receive monthly financials directly from the credit union, their supervisor will on a case-by-case basis:

- Work with the SSA office to determine the method for the NCUA examiner to obtain the monthly financial information needed and means for follow-up on requested reports;
- Notify the SSA and/or FISCO when there is a change in district assignment or the monthly financial data is no longer needed; and
- Determine the format of the examiner's analysis and reporting requirements.

E. Reviews of SSA Examinations (WCC 26)

SSAs upload AIREs examinations in a similar fashion as NCUA examiners. When NCUA receives an SSA examination report (typically through AIREs) and a corresponding Scope Module (except from the non-participating states), examiners typically have three hours to review the SSA report. Examiners typically refer to this type of offsite supervision contact as a "Code 26 Review"

because they charge time spent to WCC 26. In essence, a Code 26 Review is the time an examiner spends to identify financial and operational risks in FISCUs. There is a more detailed description of the WCC 26 review process later in this chapter.

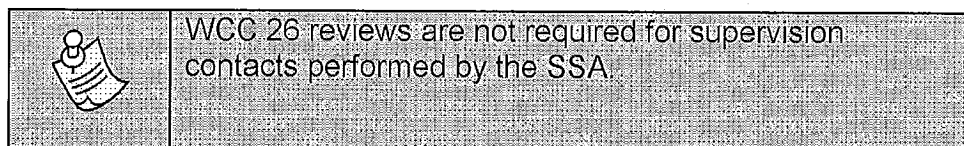
Reviews of independent SSA examinations that result in an NCUA CAMEL composite rating of 3 or worse, and the SSA CAMEL composite rating is better than NCUA's CAMEL composite rating, require an onsite supervision contact to more fully evaluate material risks. Regional Directors will establish the timeframe for the onsite contact.

F. Processing of 5300 Reports and Quarterly Trending for FISCUs (WCC 21)

Examiners will perform quarterly offsite supervision while reviewing the 5300s, risk reports, FPRs, and other offsite monitoring tools for their district. Examiners will use WCC 21 for FISCU reviews. Refer to Chapter 1 for more information on quarterly trending.

5. Completing a Review of a State Examination (WCC 26).

Examiners will review all state examinations, regardless of whether they participated with the SSA or not. The effective date of the review must match the effective date of the AIREs WCC 11 examination.



A. Receipt of SSA Examination

The first step in completing a review of a state examination is the receipt of the SSA examination. For states using AIREs, examiners receive a confirmation email from SysAIREs notifying them of the examination report upload and they can use the link in the email to download the file. Otherwise, the SSA sends a hard copy of the report to the Regional Office who will then forward it on to the examiner.

B. WCC 26 Timeframes

Examiners will upload WCC 26 reviews for FISCUs in their district within 30 calendar days of receipt. Supervisors may approve workload-based extensions up to 45 days. The 30 days will start the day examiners receive a confirmation email from SysAIREs notifying them of the examination report upload (or if the report is submitted hard copy, the day the Regional Office provides examiners with the report).

C. Review of the SSA Report

When completing a WCC 26 review, examiners will:

- Determine whether the report identifies and addresses the material issues;
- Identify and document the SSA's supervision efforts and NCUA's supervision efforts;
- Determine the appropriateness of the SSA's supervision;
- Determine any CAMEL differences. Examiners will communicate, through their supervisor, any adverse differences in the composite rating to the SSA (e.g. CAMEL 3, 4 or 5);
- If it was a joint examination, document whether the material issues and agreed-upon concerns are in the final report, (e.g., Examination Overview, DOR);
- Determine if risk has been properly identified and addressed by the SSA;
- Document any material risk the examination report does not adequately cover;
- Recommend whether a joint examination or contact is necessary. If the concerns are significant, examiners may recommend a joint contact rather than wait until the next joint examination; and
- Document recommended actions or communication to resolve any material risk oversights or inadequate corrective action identified in the SSA report. For example, examiners may draft an RDL to the SSA if the report failed to identify or properly address material concerns. Examiners will first discuss the concerns with their supervisor, who in turn will discuss with their SSA counterpart. If the issue cannot be resolved at that level, an RDL may be necessary.

The review should not be a recap of the SSA's report but rather an analysis of the operational and financial condition of the credit union. Examiners will provide enough information to give a clear picture of this condition.

D. Procedures in AIREs for WCC 26s

Examiners perform all WCC 26 reviews in AIREs. During WCC 26 reviews, NCUA examiners will add any problem codes necessary beyond those the SSA input. Examiners will use the EMC and Scope Module to document the review. To complete the WCC 26 review, examiners will:

- Review the state report;
- Enter "26" in the contact type in AIRES;
- Complete the "Final Assessment" tab in the Scope Module.
 - Examiners will provide input for the Final Risk Assessment, Reasons for Risk Assessment, Anticipated Direction of Risk, and Reasons for Anticipated Direction, for each of the seven areas of risk.
- Examiners will complete the "Review of State Examination" questionnaire;
 - This requires examiners to answer the eight questions relating to the WCC 26 review. Examiners access the questionnaire via the hyperlink in the upper right hand corner of the "Final Assessment" tab and is labeled "Review of State Examination." Examiners must provide comments for any question answered with "no" for questions 2-6.
- Complete the "Plans and Budget" tab in the Scope Module;
 - Complete this tab to show budget projections for the next examination cycle. Standard budgeted hours anticipated for call report review and WCC 26 reviews do not need to be included.
- Record their time and complete the "Completion Information" tab;
- Input the DOR module if the SSA did not include a DOR in their Scope Module input;
- Under "Items Excluded from DOR", create any new problem codes necessary and not addressed by the SSA;
- Input both the NCUA and SSA CAMEL ratings on the CAMEL worksheet in Exam.xls and input any comments concerning the CAMEL code and differences on this tab;
- Complete the CCV Module, as applicable, for any violations (i.e. significant BSA violations) not addressed or reported correctly in the SSA report;
- Discuss any plan of action with their supervisor, as applicable;
- Perform any necessary follow-up action (e.g. verbal communication with the SSA, RD Letter), as applicable; and
- Upload the completed AIRES file.

<p><i>Reminder!</i></p>	<p>If an NCUA examiner assigns a composite CAMEL rating of 3, 4, or 5 during the review of a state examination report, and the NCUA CAMEL rating is worse than the rating the SSA assigned, and NCUA did not participate in the examination, the NCUA examiner will consult their supervisor about scheduling an onsite contact to more fully evaluate material risks. See <u>NCUA Instruction No. 5020, Disclosing CAMEL Ratings to Federally Insured State Credit Unions (FISCUs)</u> for additional details.</p>
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6. Requesting Additional Information from the SSA

Examiners notify their supervisor when the SSA report is lacking adequate information to determine the risk. Depending on the relationship with the SSA, the supervisor may contact the SSA or may reach an agreement with the SSA for the examiner to contact the SSA office or the SSA EIC directly to gather additional information. If the examiner does not receive the requested information, the examiner will draft an appropriate RDL and cover memo. The supervisor will also contact the SSA when the reviews or any other information reveals a need for an immediate contact at a specific FISCU.

7. Joint Conferences for FISCUs

Joint examinations of FISCUs with a CAMEL rating of a 3, 4, or 5 will include a joint conference with a majority of the board of directors. NCUA staff will attend these meetings, appropriately addressing all NCUA concerns. Examiners will disclose the NCUA CAMEL codes (components and composite) to the Board both verbally and in writing via the standard form.

The SSA examiner and NCUA EIC will hold an exit meeting in CAMEL 1 or 2 FISCUs if a joint conference is not necessary or requested. In this situation, examiners will disclose the NCUA CAMEL codes during the exit meeting. Exit meetings should occur as soon as possible after the completion of fieldwork subject to reasonable accommodation for SSA advance review of draft documents.

The timeframe for scheduling joint conferences and exit meetings should comply with the 60-day guideline for examination completion.

8. Issuing Reports to FISCUs

Generally, during joint contacts, the SSA issues the final report and uploads the AIRE examination (some state exceptions do exist). The NCUA examiner will also upload an AIRE file. In instances where NCUA takes the lead, as a courtesy, the SSA should have an opportunity to review the finalized examination report prior to issuance to the credit union. However, issuance of the report is at NCUA's discretion. NCUA staff will invite the SSA to the joint conference.

NCUA examiners will provide the SSA EIC with the working papers of their review areas upon completion of the fieldwork. The NCUA EIC will draft sections or work with the SSA to draft sections of the Examination Overview, DOR, or comparable document pertaining to NCUA's areas of concern including documentation to support the report's findings and conclusions. The NCUA EIC will also work with the SSA EIC to include NCUA comments in the AIREs Scope Module for NCUA review areas.

To ensure the best possible results in resolving any anticipated dispute with the SSA examiner, the NCUA EIC will identify and discuss with the SSA examiner, as early as possible in the examination process, any corrective actions to be required of the FISCU, including respective CAMEL component and composite ratings.

Any disagreements concerning the content of documents will be resolved prior to meeting with FISCU management. If agreement is not possible at the examiner level, NCUA examiners will contact their supervisor who will discuss the matter with the SSA office and ARDP. If agreement is still not possible, examiners will draft a section for the SSA to include in the issued report titled "NCUA Concerns," which outlines these issues and required resolution. Examiners will work to obtain agreement from the SSA to include this section in the final report to management. Should the SSA not include this section, examiners will discuss these concerns with their supervisor, provide documentation in the WCC 26 review regarding the issues, and draft a RDL to the FISCU stating NCUA's concerns and necessary corrective action.

9. Disclosure of CAMEL in FISCUs

NCUA CAMEL ratings will be disclosed to the credit union and the SSA for all onsite FISCU contacts via a standard form. Reviews of independent SSA examinations (WCC 26 or WCC 28 reviews) where the NCUA CAMEL code is 3 or worse and lower than the SSA CAMEL rating require an onsite contact. Regional Directors will establish the timeframe for this onsite contact. NCUA Instruction No. 5020, Disclosing CAMEL Ratings to Federally Insured State Credit Unions (FISCUs), governs the procedures examiners must follow to ensure NCUA's assignment of risk is transparent and understood by the SSA and the FISCU.

10. AIREs Uploads for FISCUs

Examiners will upload AIREs contacts for FISCU onsite contacts as they would for FCUs. As described in Chapter 1, examiners will enter the examination completion date on the "Completion Information" tab of the EMC in AIREs. The examination/supervision completion date is the day the examiner last charged time to the examination and is required to be within five business days of the latest of the following dates:

- Date last onsite;
- Date of exit meeting; or
- Date of joint conference.



If the examination completion date exceeds five business days due to items such as conferences, training, annual or sick leave, the examiner will document the circumstance(s) in the Confidential Section noting supervisor concurrence.

11. Credit Union Enforcement Action

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Prompt Corrective Action (PCA) – NCUA will communicate with the SSA on an ongoing basis regarding all actions involving FISCUs taken under Part 702 of the NCUA Rules and Regulations.

12. FISCU Consumer Compliance Program

NCUA Instruction No. 12400.05 addresses compliance evaluation in FISCUs. If the SSA is responsible for determining consumer compliance in the FISCU, the SSA's procedural responsibilities include:

- The SSA completes the consumer compliance checklists during the examination.
- If compliance violations are identified in the FISCU, the SSA will:
 - Enter the violation(s) in the CCV Module in AIREs (optional);
 - Input the problem code(s) in the DOR module; and
 - Provide a description (preferably using the Supplementary Facts document) of the problem/deficiency and the actions the credit union plans to initiate in order to resolve the situation.
- The SSA continues to upload the violation(s) in AIREs (or email the examination, including the compliance forms/documents, to the Regional Office).
- If a compliance violation exists, and the SSA did not complete the CCV Module in AIREs, the NCUA examiner completes it during the WCC 26 review. If the credit union is unable or unwilling to take corrective action, the NCUA examiner:
 - Reviews the situation;

- Consults with their supervisor to determine what further action, if any, is needed on NCUA's part;
- Seeks assistance from OGC working through the Regional Office if the violations are serious; and
- Notifies their supervisor and the SSA of the determination.

13. NCUA Responsibilities Regarding Compliance Regulations in FISCUs

NCUA has the enforcement authority in state-chartered credit unions for the following consumer regulations:

- Home Mortgage Disclosure Act - Reg C;
- Expedited Funds Availability Act - Reg CC;
- Flood Disaster Protection Act;
- Truth in Savings Act;
- Bank Secrecy Act (SSA has authority to review),²⁵
- Depository Institution Management Interlocks Act,²⁶
- Gramm-Leach-Bliley Act (Privacy of Consumer Financial Information); and
- Homeowners Protection Act (PMI disclosures).

²⁵ While many SSAs have signed their own MOU with FinCEN, adherence to Part 748 is a requirement for federal insurance.

²⁶ Part 711 of NCUA Rules and Regulations discusses the provisions of the Depository Institution Management Interlocks Act (aka "Interlocks Act" or "Management Official Interlocks").

Appendix 3-A

Chapters 2 and 3 Comparison Matrix

Federal Credit Union and Federally Insured State Chartered Credit Union Examination and Supervision Reference Table		FCU	FISCU
Examinations and Joint Insurance Reviews		X	X
Time charged:			
- Work Classification Code 10		X	
- Work Classification Code 11			X
NCUA EIC responsible for AIREs scope module		X	X
Scheduling			
- FISCUs > \$250 million – annual examinations			X
- Regional Direction discretion for onsite participation for FISCUs < \$250 million			X
- Examiners will make every effort to schedule joint examinations with the SSA to streamline the process. If a joint examination cannot be achieved, NCUA will conduct an insurance review.			X
<u>FISCU Joint Examinations</u>			
- Work Classification Code 11			X
- Either a joint report with the SSA or a stand alone NCUA report issued to the credit union			X
- Documentation: NCUA developed documents such as Overview commentary, DOR, Findings, AIREs work papers to support scope and conclusions, completed scope module, compliance or non-compliance with the Document of Resolution, Letter of Understand and Agreement, etc., completed confidential section, discrepancies between the SSA-issued report and agreed-upon corrective action items.			X
- Participate in the joint conference held with the SSA, if applicable. If the SSA is not planning a joint conference, the NCUA examiner must hold a joint conference for all CAMEL 3, 4, and 5 credit unions.			X
- An exit meeting will be held if a joint conference is not scheduled for CAMEL 1 or 2 FISCUs.			X
- SSA invited to join all NCUA hosted joint conferences.			X
- Joint conferences and exit meetings should comply with the 60 day guideline for examination completion.			X
- NCUA CAMEL Rating Disclosure in AIREs will be provided to the SSA and credit union verbally and in writing.			X
<u>FISCU Insurance Reviews</u>			
- Work Classification Code 11			X
- NCUA Examiner is EIC (unless otherwise agreed to by the SSA)			X
- Scope focuses on safety and soundness and NCUSIF concerns			X

	<ul style="list-style-type: none"> - Review limited to areas of risk, including compliance with NCUA Rules and Regulations - Documentation: Scope module, compliance or non-compliance with previous Document of Resolution, Letter of Understanding and Agreement, etc., Document of Resolution module in AIRES, Consumer Compliance Violation module in AIRES, Management's acceptance of current Document of Resolution, Confidential section - Written narrative report provided to the credit union and SSA. If requested, the NCUA EIC will provide the report to the SSA prior to the joint conference and issuing it to the credit union. - NCUA EIC must hold a joint conference for all CAMEL 3, 4, and 5s. - An exit meeting will be held if a joint conference is not scheduled for CAMEL 1 or 2 FISCUs. - SSA invited to join all NCUA hosted joint conferences and exit meetings. - Joint conferences and exit meetings should comply with the 60 day guideline for examination completion. - NCUA CAMEL Rating Disclosure in AIRES will be provided to the SSA and credit union verbally and in writing. 		<p style="text-align: center;">X</p> <p style="text-align: center;">X</p> <p style="text-align: center;">X</p> <p style="text-align: center;">X</p> <p style="text-align: center;">X</p>
	<p><u>FISCU Scoping</u></p> <ul style="list-style-type: none"> - Meet with the SSA to establish NCUA scope and support resources prior to start of field work - NCUA EIC responsible for reporting on all significant risk areas including laws and regulations for which NCUA has enforcement authority. - NCUA EIC will document in the scope module which minimum scope steps the SSA performed. 		<p style="text-align: center;">X</p> <p style="text-align: center;">X</p> <p style="text-align: center;">X</p>
	<p><u>Communication with SSAs</u></p> <ul style="list-style-type: none"> - Regional Director/ Associate Regional Directors and supervisors will meet with SSAs at least annually - Each December, supervisors will provide a list of credit unions NCUA plans to conduct a joint contact/insurance review. This list will be updated as needed. 		<p style="text-align: center;">X</p> <p style="text-align: center;">X</p>
Supervision Contacts			
		FCU	FISCU
	<u>Follow-up Exam</u> - CAMEL 3, 4, and 5 credit unions – analysis of data to support CAMEL ratings and administrative action recommendations	X	X
	Joint conference with the board of directors required	X	X
	Time Charged <ul style="list-style-type: none"> - Work Classification Code 22 - Work Classification Code 23 	X	X
	Timeframes: CAMEL Code 3 (completion date to completion date)	X	

	<ul style="list-style-type: none"> - At least every 180 days - FISCU > \$250 million – at least every 180 days - Supervisor can approve a waiver for up to 240 days. Additional extensions must be approved by Associate Regional Director. 	X	X
	<p>Timeframes: CAMEL Code 4 or 5 (completion date to completion date)</p> <ul style="list-style-type: none"> - At least every 120 days - FISCU > \$250 million – at least every 120 days - Associate Regional Director must approve extensions beyond the 120 day timeframe. 	X	X
	FISCUs < \$250 million – Optional Regional Director supervision requirements		X
	<p>Documentation</p> <ul style="list-style-type: none"> - AIRES upload including historical download, Exam.xls, critical input areas, scope module, work papers to support conclusions, compliance with administrative actions, compliance/non-compliance with previous DOR items, written narrative to the credit union, date of exit meeting or joint conference, consumer compliance violation module, Confidential section, other information to support the examination - CAMEL 3 with Assets > \$250 million and all CAMEL 4/5: Updated Supervision Chronology Report - FISCU Confidential section: Discrepancies between SSA issued report and agreed upon actions - A report must be issued to the credit union - FISCUs: SSA issues the report - EIC will work with the SSA to ensure the report includes required corrective and administrative actions - FISCUs: NCUA issues the report – same process as FCUs 	X	X
	<u>Onsite Contacts</u> – more limited than follow-up exam; review of one major area or compliance with DOR, etc.	X	X
	<p>Time charged</p> <ul style="list-style-type: none"> - Work Classification Code 22 - Work Classification Code 23 	X	X
	<p>Timeframes</p> <ul style="list-style-type: none"> - Scheduled and conducted as needed. - Significant recordkeeping follow-up required within 60 days from the last contact's completion date. Onsite contacts required every 60 days until issues are resolved. - Supervisor must approve any extension beyond to 60 days with notification to the Associate Regional Director 	X	X
	EIC and supervisor may substitute limited scope onsite contact		X

	completed by the SSA in place of a NCUA onsite contact		
	Documentation		
	- AIRES upload including historical download, Exam.xls, critical input areas, scope module, written narrative to the credit union, completed Exam Management Console, Confidential section, other information to support the contact	X	X
	- CAMEL 3 with Assets > \$250 million and all CAMEL 4/5: Updated Supervision Chronology Report	X	X
	- Report must be issued to the credit union	X	X
	Findings and Recommendations discussed at an exit meeting	X	X
	<u>Offsite Contacts</u> – follow-up on outstanding concerns, review responses to a DOR, review monthly financial data and/or board packages, review of SSA reports, etc. Includes monthly financial monitoring and trending of financial data.	X	X
	Time charged		
	- Work Classification Code 27	X	
	- Work Classification Code 28		X
	Documentation (contact over 8 hours)		
	- "Minimum contact" AIRES upload including: completed Exam Management Console and documented contact scope, progress, conclusions, and recommendations.	X	X
	- Completed scope module only required if there is a material change in the risk ratings.	X	X
	Documentation (contact 8 hours or less)		
	- Time aggregated and uploaded on a quarterly basis. If total quarterly time is less than 8 hours, an AIRES upload is not required	X	X
	- Exception: AIRES upload required for all BSA-related resolution contacts	X	X
	If the NCUA CAMEL code is 3 or worse and lower than the SSA CAMEL rating, examiner will complete an onsite contact in the FISCU.		X
	<u>Processing of 5300 Call Reports and Quarterly Trending</u> – quarterly offsite supervision reviewing the 5300s, risk reports, FPRs, and other offsite monitoring tools	X	X
	Time charged		
	- Work Classification Code 20	X	
	- Work Classification Code 21		X
	<u>Review of SSA Examinations</u> – Required review of uploaded SSA examination reports regardless of whether the examiner participated on the exam or not.		X
	Time charged: Work Classification Code 26		X
	Timeframes		

		<ul style="list-style-type: none"> - Must be completed within 30 days of receipt of the state examination report or email notification of the examination report upload - Supervisors may approve an extension up to 45 days 	X	X
		<p><u>Procedures</u></p> <ul style="list-style-type: none"> - Review will be completed within AIREs using the Exam Management Console and the scope module - Examiners will add any problem codes needed beyond those inputted by the SSA - Supervisors will request additional information from the SSA if the report is lacking adequate information to determine the risk. - If the NCUA CAMEL code is 3 or worse and lower than the SSA CAMEL rating, examiner will complete an onsite contact. 	X	X

Chapter 5 – Audits, Recordkeeping, and Fraud

Audits are required under Part 715 of the NCUA Rules and Regulations. They are a critical tool used to evaluate the integrity and fairness of the financial statements. They provide assurance of the reliability of the financial statements used by credit union management, members, creditors, insurers, and NCUA. These statements are the basis for risk identification and offsite monitoring of the credit union system. Chapter 5 of the Examiner's Guide provides detailed discussion of Supervisory Committee Audits, instructions for reviewing the audit and engagement letter, and information on the review of member account verifications.

Recordkeeping is the process of recording and maintaining sufficient information to trace all transactions to a point of origin. An effective recordkeeping program is bolstered by strong internal controls and facilitates the audit process. Audits rely on financial records to validate data integrity, identify inaccuracies, and decrease the risk of fraud.

1. Examiner Responsibilities

Examiners are required to review audit workpapers as noted in NCUA Instruction No. 5000.20 (Rev. 4), Risk-Focused Examinations - Minimum Scope Requirements.

2. Audit Firms Located Outside the Geographic Area

Per §715.10 of the NCUA Rules and Regulations, the SC is responsible for preparing and maintaining, or making available, a complete set of original working papers supporting each supervisory committee audit. The SC will, upon request, provide NCUA staff unconditional access to such working papers, either at the offices of the credit union or at a mutually agreeable location, for purposes of inspecting such working papers.

In the event the audit firm is located outside the geographic area of the credit union and the examiner determines it would be advantageous for another region and/or group to review the audit work papers at the firm's office, examiners will request assistance from another group or region through the supervisor. Examiners from the requested supervisor group will be responsible for reviewing the independent state-licensed accountant's audit work papers and providing a report summarizing the review to the EIC.

3. Unacceptable Audits and Member Account Verifications

Examiners will consider an audit or verification unacceptable and develop plans of action when they determine:

- Material parts of the audit or verification were not done;
- Material parts of the audit or verification are not supported by work papers;
- Material areas of credit union operations were not audited; and

- The auditor lacks independence from the credit union.

Examiners - Examiners who discover material audit/Member Account Verifications deficiencies conducted by the SC or an external auditor that is not a licensed independent auditor or certified public accountant will:

- Contact their supervisor;
- Determine if the audit can be cured timely (if not, discuss alternatives with their supervisor);
- Rate compliance risk as "high" or document the rationale for a different risk rating;
- Denote this a major area of concern in the Examination Overview;
- Prepare a DOR which provides a reasonable time period for the SC to correct the deficiencies;
- Require the SC to provide a monthly status report of their progress to the examiner;
- Document the audit or Member Account Verifications deficiencies as a problem code using the DOR module (within "Compliance Risk" Risk Area of DOR module); and
- Establish a follow-up supervision contact within 60 days of the last contact's completion date. The supervisor must approve any extension beyond 60 days with notification to the ARDP. The examiner must document any extensions in the Confidential Section during the next contact.

If the audit or Member Account Verifications remains unacceptable, examiners will proceed in accordance with §715.11 of the NCUA Rules and Regulations to obtain an acceptable audit or Member Account Verifications following the guidelines in Chapter 5 of the Examiner's Guide.

Recurring deficiencies for audit and Member Account Verifications are grounds to proceed to administrative actions. Examiners can consult with their supervisor to develop a more stringent supervision plan if needed. Additionally, the CAMEL Management component and overall rating should reflect management's recurring non-compliance with this critical internal control area.

4. Audits by Licensed Independent Accountants

Examiners cannot take independent action in the event a financial statement audit by a state licensed independent accountant is unacceptable.³³ NCUA Instruction No.4016.01, Obtaining Concurrence and Advancing an Assertion That an Opinion Audit or Agreed-Upon-Procedures are Unacceptable in Meeting NCUA Audit Regulations sets out procedures required to rate a state licensed independent accountant audit unacceptable and requires RD approval and E&I concurrence. The supervisor will evaluate the seriousness of the deficiency and if it is sufficient to warrant a rejection of the audit, the supervisor will contact the Regional Office and proceed in accordance with NCUA Instruction No.4016.01, Obtaining Concurrence and Advancing an Assertion That an Opinion Audit or Agreed-Upon-Procedures are Unacceptable in Meeting NCUA Audit Regulations.

If the licensed independent accountant denies access to the work papers, examiners will contact the SC chairman to report the situation and ask for assistance in resolving the problem. If unsuccessful, examiners will contact the supervisor for guidance. Examiners should never sign any document or release to gain access to the work papers unless OGC has reviewed the release and advises signature. E&I can assist examiners and supervisors in obtaining OGC review in a timely fashion.

5. Significant Recordkeeping Concerns

Significant recordkeeping concerns include any other issue that presents an unacceptable degree of risk including:

- Incomplete bank reconciliements or over 60 days in arrears; and
- Records materially in arrears or significant unreconciled differences (including AIREs share and loan download not tying back to member trial balance).

When an examination or supervision contact reveals significant recordkeeping concerns, examiners will:

- Notify their supervisor;
- Review material general ledger accounts including, but not limited to, loans, member deposits, cash, investments, subsidiary ledgers, and the call report;
- Rate transaction risk as "high" or document the rationale for a different risk rating;
- Denote this as a major concern in the Examination Overview;
- Prepare a detailed DOR, using the DOR module, and obtain agreements from the officials to achieve the stated goals;

³³ Examiners can take exception with the Supervisory Committee if the state licensed independent accountant performed agreed upon procedures rather than a financial statement audit, in the circumstance that the scope of work for which the Supervisory Committee contracted does not meet the requirements of the NCUA Rules and Regulations §Part 715 or the Supervisory Committee Guide minimum procedures.

- Require the SC/designated person to provide monthly status reports, electronically or telephonically. These reports should note the progress made to remedy the recordkeeping problems. Examiners will maintain a Supervision Chronology Report (Appendix 1-A) of these contacts to be included in subsequent AIRE uploads (and for submission to their supervisor if requested);
- Establish a follow-up supervision contact within 60 days of the last contact's completion date. Conduct a supervision contact every 60 days (from the time the problems were identified) until all problems are resolved. The supervisor must approve any extension beyond 60 days with notification to the ARDP. The examiner must document any extensions in the Confidential Section during the next contact; and
- Establish a resolution date of 180 days or less.

A. Incomplete Bank Reconcilements or Over 60 Days in Arrears

Examiners: If the bank or corporate reconcilements are incomplete (unreconciled) or in arrears greater than 60 calendar days, in addition to the steps outlined in the previous section, examiners will:

- Determine the cause and evaluate the scope of the potential problem;
- Reach agreements with management to bring the reconcilements current, usually within 30 calendar days, and involve the SC in this process; and
- Consider requiring an outside independent accountant to bring reconcilements current, especially if the SC is not functional or does not possess the skills to adequately review the bank reconcilement process.

B. Records Materially In Arrears or Significant Unreconciled Differences

Examiners must use judgment in assessing material recordkeeping problems. In some cases, the size of the unreconciled differences may not be related to the scope of the problem, particularly if the control environment lacks integrity. If records are materially in arrears or there are significant unreconciled differences, in addition to the steps outlined above in Section 2, examiners will discuss with their supervisor to determine whether to:

- Extend the examination/supervision contact up to 30 calendar days if the records cannot be brought current during the examination. If this option is taken, examiners will note in the Confidential Section the reasons why the examination was extended and the concurrence received; or
- Complete the examination using the most current meaningful data available. If this option is taken, examiners will note in the Confidential

Section if the officials have failed to meet agreements to correct recordkeeping concerns.

If the recordkeeping problems are serious and persistent as defined §715.12(c) of NCUA Rules and Regulations, the EIC may compel a federal credit union to obtain a financial statement audit performed in accordance with GAAS by an independent person who is licensed by the State or jurisdiction in which the credit union is principally located. If the supervisor and EIC determine that an opinion audit is necessary, the supervisor will notify the ARDP.

If offsite monitoring and/or supervision contacts reveal major areas of concern with ongoing recordkeeping, audits, or verification of members' accounts which have not been properly resolved within 180 days, the EIC will consult their supervisor and determine what administrative action is to be taken.

Examiners will document offsite/onsite contacts by using the appropriate methods, e.g., AIREs, Confidential Section, etc., and indicate the progress and actions taken.

6. Addressing Bond Claims

If the credit union has a bondable loss and has not provided the appropriate notice to the surety company or refuses to do so, examiners will notify their supervisor. The supervisor will discuss the issue with the ARDP or ARDO as appropriate and a decision will be made regarding NCUA notifying the surety company of a potential bond claim. During contacts, examiners should:

- Determine whether a bond claim is outstanding, established as a receivable, remains on the books as a loan or other account, or has been written off;
- Determine whether the surety company has committed to paying the claim; and, if so, the amount of the commitment; and
- Direct the credit union to write off any claims, or portions of claims, considered losses even if this will cause a deficit or insolvency. In evaluating the collectability of claims, examiners will consider the following:
 - Surety companies do not pay for lost interest or lost opportunity income.
 - The credit union must have incurred a loss for a valid claim to exist.
 - An examiner's adjusting journal entries in AIREs must properly reflect the bond claim as an accounts receivable, or loss, after the surety bond company has confirmed the outcome of the claim in writing.

Examiners should contact their supervisor when they identify material bond claims or when adjusting entries will cause a deficit in undivided earnings or insolvency. At a minimum, examiners should document shortages in the scope and other sections as appropriate.

7. Determine Bondability Status

In some instances, it may be necessary to contact a bonding company regarding an employee's or official's bond status. This procedure is usually reserved for fraud, insider dealings, or when we have completed a prohibition and want to check if the individual's bond has been revoked (open claims typically will not yet have a determination, especially if no criminal charges are involved). DOS will handle these requests and will contact the bonding company after receiving a request from the examiner (with supervisor concurrence) to determine if the credit union employee or official is bonded.

Examiners may obtain information on an employee or official's bond status by sending a request via e-mail to their region's DOS mailbox that includes the individual's name and social security number. Examiners should discuss this process with their supervisor prior to contacting DOS and copy their supervisor on the request to DOS.

8. Dishonesty, Fraud, and Insider Dealings

If an examiner discovers fraud or a shortage, they will document the fraud or shortage as completely as possible and notify their supervisor. With supervisor concurrence, the examiner will notify the board of directors and the supervisory committee and request completion of a Suspicious Activity Report (SAR). The examiner will encourage the officials to, at a minimum, (1) suspend the personnel involved with pay, (2) control the access of personnel involved to the credit union, (3) fill the operational void caused by the suspension, (4) contract to perform a fraud audit, (4) notify surety, and (5) file a bond claim after all facts are known. Ultimately, NCUA must decide the likelihood of pursuing prohibition actions against dishonest individuals. Examiners must seek input for this decision from their supervisor, Regional Office, and, if necessary, OGC. Should conviction of a crime result for an individual, NCUA usually can obtain a prohibition more easily.

9. Fraud Report Investigations

The Office of General Counsel monitors the toll free NCUA Fraud Hotline – (800) 827-9650. Upon receiving a report of suspected fraud or other irregularities, OGC will forward a Fraud Hotline Report to the appropriate RD for review. Reports of suspected fraud or other irregularities might also be received in the Regional Office from other sources.

After the Regional Office receives a Fraud Hotline complaint, DOS reviews the complaint and obtains supporting documentation from the Financial Crimes Enforcement Network (FinCEN), if possible. The Regional Office will send a copy of the Fraud Hotline complaint and any supporting documents to the appropriate supervisor, with a copy to the examiner, accompanied by a work assignment.

Examiners will review the fraud report and supporting documentation and discuss with their supervisor. The examiner will make an onsite visit to the credit union, if deemed appropriate by the supervisor. The names of parties filing a complaint should be kept in confidence. During a review, examiners are encouraged to review source

documentation, such as relevant statements and supervisory override reports. Examiners should also discuss the allegations with management or other pertinent individuals, as necessary.

Examiners will prepare the following, based on the analysis performed:

- A Regional Summary or memo documenting the review of the allegations contained in the fraud report. At a minimum, the summary/memo should address:
 - Merits of each allegation contained in the fraud report;
 - Background information on the allegations contained in the fraud report;
 - Scope of the review (actions taken to determine validity of the allegations);
 - Results of the review (findings in connection with the allegations);
 - Conclusion indicating whether allegations are substantiated or unsubstantiated;
 - Identify any action(s) taken where the allegations were substantiated; and
 - Recommendation for further action, if necessary.
- A draft memo to OGC from the RD responding to the Fraud Hotline complaint. The memorandum must address whether the complaint was found to be valid and what, if any, additional supervision will be performed on a regional level to ensure inappropriate practices are discontinued. The memorandum should also indicate whether any assistance from OGC is required and, if so, indicate the nature of the assistance needed (if the fraud report was initiated in the Regional Office, this memo is not necessary).

When it is determined allegations of fraud or improper conduct are substantiated, supervisors are responsible for ensuring appropriate corrective action is initiated at the field level and documented in the report.

If it appears subpoenas for documents or testimony will be needed, the RD, through DOS, should be notified immediately so assistance may be requested from OGC.

Chapter 6 – Regulatory Waivers, Change of Officials, and other Regulatory Actions

NCUA applies federal statutes, regulations, and directives to achieve strategic goals and ensure uniformity in application of supervision standards. Regulatory waivers afford flexibility in instances where specific criteria are satisfied. NCUA processes waiver requests in accordance with regulatory requirements and internal directives.

This chapter establishes national policy NCUA staff follows when completing work assignments and examination and supervision of regulatory related waivers and other regulatory related actions.³⁴

1. General Procedures and Requirements for Waivers

A. General Responsibilities

i. Examiner Responsibilities

Examiners are responsible for evaluating credit unions' regulatory compliance and identifying potential safety and soundness issues when processing work assignments, completing supervision work, and performing examinations. Examiners will use the national standards established in this chapter to ensure quality and consistent work. The standards in this chapter also ensure consistent administrative record documentation. Examiners will create an administrative record for recommendations made and actions taken in meeting standards set forth in this chapter.

ii. Supervisor Responsibilities

Supervisors are responsible for reviewing and ensuring staff performs quality work which follows the standards of this chapter. Supervisors are responsible for reviewing and approving work for completeness and accuracy prior to submission to the Regional Office. Supervisor approval becomes part of the credit union's administrative record. Supervisors are responsible for monitoring risk institutionally and on a group basis.

iii. Regional Office Responsibilities

ROs are responsible for having systems and controls in place to ensure standards of this chapter are met. When reviewing work related to the standards of this chapter, regional processes must ensure quality work and accurate administrative records are maintained for regulatory related

³⁴ This chapter is not inclusive of all types of waivers. This chapter reflects the rules and regulations as of May 17, 2012 with the exception of RegFlex (Part 742). E&I will update this Chapter whenever the NCUA Board adopts a new regulation or revises an existing regulation. Examiners should contact their supervisor if assistance is needed that is outside the scope of this chapter.

actions. DOS is responsible for monitoring risk institutionally and on a regional basis.

iv. E&I Responsibilities

E&I is responsible for monitoring periodic risk reports to review trends and issues related to regulatory waivers and other regulatory related actions. E&I also has oversight of this Manual and ensures standards are clear and followed by staff through its quality assurance program. E&I will evaluate compliance with this chapter during routine monitoring of cases, quality assurance reviews, and review of information submitted on required reports. During periodic updating of this Manual, E&I will solicit comments from other offices to ensure standards set forth in this chapter remain current and effective.

B. Waiver Processing Procedures

In general, the following procedures will be used to process FCU waiver requests. Please refer to each specific waiver type outlined in this chapter for unique processing steps.

i. Division of Supervision Initial Review Responsibilities

After the RO receives the credit union's application, DOS will perform a cursory review to determine whether the credit union request is complete.

If considered complete:

- Prepare an acknowledgement letter and send it to the credit union by the region's preferred expedited mail delivery service; and
- Prepare and send a work assignment to the field that includes the credit union's request, application package, supporting documentation, and request a recommendation for approval or denial.

If incomplete:

- Prepare an incomplete/denial letter and send it to the credit union by the region's preferred expedited mail delivery.
- Ensure the letter lists the additional information the credit union must submit if they would like the request to be considered. DOS will copy the examiner and supervisor on the letter.

ii. Field Review Responsibilities

Examiners and their supervisor will evaluate the credit union's net worth, CAMEL and risk ratings, and financial strength, and provide a recommendation whether to grant the request. The scope and depth of the examiner's review will be scaled according to the materiality of the waiver request.

The examiner, with supervisor approval, will determine if an onsite contact is necessary.

After review, examiners will:

- If considered incomplete:
 - Determine if the waiver package is in fact complete. If the package is incomplete, the examiner will draft the appropriate incomplete/denial letter (refer to the Denial – Incomplete Request Letters contained in the Appendix of this chapter) or informally contact the credit union to obtain the missing information.
- If considered complete:
 - Complete a Regional Summary to include an approval or denial recommendation; and
 - Draft a letter for approval, partial approval, deferral, or denial and email the letter along with the Regional Summary and any other supporting documentation to their supervisor.

The supervisor will review the information, provide supporting reasons for concurrence or non-concurrence, and forward the package to the region's DOS mailbox.

If recommending denial, examiners will not discourage any credit union from applying for reconsideration or filing an appeal, if applicable.

iii. Division of Supervision Processing Responsibilities

Upon receipt of the field's recommendation, DOS will review and analyze the recommendation for appropriate support and justification. Upon concurrence, DOS will submit the recommendation and proposed response letter to the RD for approval and signature. DOS will mail the signed letter to the credit union using the region's preferred expedited mail delivery service and copy both the examiner and supervisor.

If DOS and/or the RD do not agree with the field's recommendation, the supervisor will be notified of the reasons. The field will be given the opportunity to further support or revise their recommendation in the

Regional Summary and draft revised correspondence, if necessary. DOS finalizes the response letter for the RD's signature. Once signed, DOS will mail it to the credit union using the region's preferred expedited mail delivery service and copy both the examiner and supervisor.

C. FISCU Waiver Processing

Unless otherwise specified by regulation, a FISCU must submit the waiver request to its SSA.³⁵ If the SSA approves the request, the SSA will forward the request to the RD. A waiver is not effective until approved by the RD. If the SSA denies a request, the RD will also deny it.

D. Waiver Timeframes

The Région will respond within the timeframe specified in the applicable regulation, or where not specified within 45 days from the date a completed request is received in the Regional Office.

Appendix 6-HH outlines the regulatory and statutory timeframes for waivers.

E. Waiver Periodic Review and Revocation Process

Regions will review outstanding regulatory waivers every three years.³⁶ This requirement applies to any waiver that involves authority for ongoing activity (as opposed to a waiver for a single action).

The RD may revoke a credit union's waiver, in whole or in part, for substantive, documented safety and soundness reasons. When revoking a waiver, the RD must give written notice to the credit union stating the reasons for the revocation. The notice should also discuss where applicable the treatment and/or grandfathering of activities conducted while the waiver was in force. The revocation is effective upon the credit union's receipt of the letter from the RD.

Examiners should first discuss revocation with their supervisor. Examiners will submit a revocation package to their supervisor consisting of a memo, a draft letter, and any other documentation necessary to justify the revocation. The supervisor will send the revocation package to the region's DOS mailbox. The memo will include a discussion of:

- Background of the credit union and the problems;
- Substantive safety and soundness justification;
- Net worth and solvency considerations; and

³⁵ Section 741.204 of the NCUA Rules and Regulations applies to state-chartered federally insured credit unions and incorporates the Section 701.32 requirements.

³⁶ Three year timeframe review begins July 1, 2012.

- Outstanding administrative and/or documented corrective action.

DOS will review the recommendation. If in agreement, DOS will prepare a concurrence summary to the RD along with the field memo and draft letter. Upon signature, the revocation letter will be sent via expedited mail with a copy to the examiner and supervisor, and SSA if applicable.

A credit union has 60 days from the date of revocation to appeal the action to the NCUA's Supervisory Review Committee (SRC).³⁷ If the SRC upholds the revocation, the credit union has 60 days from the date of the SRC's decision to appeal the action to the NCUA Board.

F. Waiver Monitoring and Controls

DOS and E&I are responsible for monitoring the consistency, soundness and appropriateness of regulatory waivers. E&I is responsible for evaluating consistency with policies and evaluating the overall trends in risk.

i. Division of Supervision Reporting Responsibilities

- DOS will maintain supporting documentation for each approval/denial in the corresponding charter files.
- Regions will maintain reports that will track all regulatory waivers.³⁸ Regions will submit a list of the waivers granted, revoked, and outstanding to E&I on a semiannual basis.³⁹ Listings will include at a minimum:
 - Charter, Name, Assets, CAMEL rating (both composite and component ratings), Type of Action, Action Date, Resolution Date (where applicable), Status, Expiration Date (where applicable) and comments.
- Regions will provide a posting of all outstanding regulatory waivers on SharePoint and implement a process to review regulatory waivers every three years.

ii. E&I Reporting Responsibilities

- E&I will review regional activity on a semiannual basis as a means of tracking regional and national trends for consistency and policy development.

³⁷ Refer to IRPS 11-1 for details of the SRC.

³⁸ Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions should ensure their current systems capture the required information.

³⁹ E&I is in process of developing a platform to capture this information.

- E&I will issue an annual national summary of the regional reports analyzing national trends.
- E&I will periodically request a sampling of actions taken under this chapter for quality control purposes as part of our ongoing quality assurance process.

2. Fixed Asset Waivers

No federal credit union with \$1,000,000 or more in assets shall invest in fixed assets if the aggregate of all such investments exceeds five percent of shares and retained earnings without the prior approval of the RD. Fixed assets do not include foreclosed properties (OREOs) and repossessed assets. Guidelines for ownership of fixed assets are addressed in §701.36 of NCUA Rules and Regulations.

The following template letters are available related to fixed asset waivers:

- Appendix 6-A – Fixed Asset Waiver Letter – Denial – Incomplete Request
- Appendix 6-B – Fixed Asset Waiver Letter – Acknowledgement – Request Complete
- Appendix 6-C – Regional Summary – Request for Fixed Asset Waiver
- Appendix 6-D – Fixed Asset Waiver Letter – Approval
- Approval recommendations will include a stated dollar amount and only those expenditures identified in the letter including contingency;
- Appendix 6-E – Fixed Asset Waiver Letter – Denial
- Denied recommendations will include an explanation of why the request was not approved and what action must be taken before the request will be reconsidered.
- Appendix 6-F – Fixed Asset Waiver Letter – Retroactive Request – Response

A. Monitoring of Fixed Asset Approval

Once a waiver is granted, the regulation does not require the level of fixed assets to be below five percent by a specific deadline; however, the credit union is expected to meet the projections submitted with the package. During each contact, examiners will document compliance with the waiver in the Scope. This reporting should continue until the credit union is within the five percent limitation.

B. Violation of the Fixed Asset Regulation

If a credit union violates the regulation by proceeding without prior approval or proceeding despite a denial, NCUA will require the credit union to take appropriate action. This may include sale of the asset or some other action to bring the fixed asset ratio below five percent within a specific timeframe.

The RD will not give retroactive approval to a request after the credit union has already violated the regulation.

3. Excess Property

Excess space is only acceptable when the credit union bases its purchase on future needs as outlined in §701.36 of NCUA Rules and Regulations.

A. Acquired Premises for Future Expansion

A credit union must partially occupy premises⁴⁰ within 36 months of acquisition. If the credit union cannot meet this requirement, they must request a waiver within 30 months of acquisition.⁴¹

B. Abandoned Property

Once property is determined to be abandoned, credit unions have four years to publicly advertise⁴² abandoned property for sale. Disposal must occur through public or private sale within five years of abandonment unless an extension is approved by NCUA.

Examiners will evaluate the request and consider efforts made by the credit union to sell the property to date including comparing book and appraised values with asking prices.

4. Nonmember Deposits Limitation Waiver

Credit union public unit and nonmember accounts cannot exceed the greater of 20 percent of total shares or \$3.0 million unless approved by the Regional Director.

Nonmember share deposits in low-income designated credit unions accepted to meet the matching requirement for loans granted through the Community Development Revolving Loan Program are not subject to the 20 percent limitation on nonmember deposits. Additionally, credit unions must maintain the increase in the total amount of matching share deposits for the duration of the loan.

The following template letters are available related to nonmember deposit waivers:

- Appendix 6-G – Nonmember Deposit Letter – More Information Needed

⁴⁰ Premises means any office, branch office, sub office, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

⁴¹ Note unimproved land must be partially occupied within 6 years of acquisition. There is no waiver available related to occupying unimproved land.

⁴² The advertisement should be publicly conspicuous. A For Sale sign in the window or front yard alone would not be acceptable advertising. The credit union should use the multiple listing service (MLS) and engage a seller's agent.

- Appendix 6-H – Nonmember Deposit Letter – Acknowledgement Receipt – Complete Request
- Appendix 6-I – Nonmember Deposit Letter – Violation Response
- Appendix 6-J – Regional Summary Nonmember Deposit Exemption
- Appendix 6-K – Nonmember Deposit Letter – Approval
- Appendix 6-L – Nonmember Deposit Letter – Denial

If a violation is identified, DOS sends a Nonmember Deposit Letter – Violation Response, by using their preferred expedited mail delivery service available, to the credit union advising the board of directors they are in violation of the regulatory limit. The letter will require the board of directors to submit an acceptable plan within 30 days to bring the credit union into compliance (i.e., return nonmember deposits or other reasonable alternative action). If the credit union intends to continue additional nonmember deposit activity, it must submit a waiver package that provides sufficient support in accordance with 701.32(b)(3).

5. Earnings Transfer Waiver

NCUA Rules and Regulations §702.201 and §702.303 address earnings transfer requirements for credit unions subject to prompt corrective actions (PCA).

A. Earnings Retention

Beginning the effective date of classification as “adequately capitalized” or lower (less than seven percent net worth), credit unions must increase the dollar amount of their net worth quarterly by at least 0.1 percent of total assets. The 0.1 percent may be calculated from current quarter earnings or from average earnings over the current and three preceding quarters. A transfer of this amount or greater must be from Undivided Earnings to Regular Reserves on a quarterly basis until the credit union becomes “well capitalized.” New credit unions must also increase their net worth quarterly but by the amount reflected in their approved initial or Revised Business Plan (RBP). In the absence of such a plan a new credit union must increase their net worth quarterly in accordance with §702.201.

There is always a quarter lag between when a credit union becomes less than well capitalized and when it needs to meet the earnings retention requirements and make a required reserve transfer. For example: XYZ CU, whose net worth category declined to “adequately capitalized” as of March 31, is not required to meet the earnings requirement or make a reserve transfer that quarter because the effective date of its net worth classification is not until April 30. However, starting the quarter-ending June 30, XYZ CU will need to:

- Increase net worth quarterly and make an earnings transfer;
- Request a reduction of the Earnings Transfer requirement if it projects it will not meet the quarterly earnings requirement;

- Request approval from both the quarterly earnings and reserve transfer requirements if it projects it will not meet the quarterly earnings requirement and also has insufficient Undivided Earnings to make the required quarterly reserve transfer; or
- Request approval to pay dividends from the Regular Reserve as a transfer to the Undivided Earnings account when a deficit in Undivided Earnings exists.

B. Reduction of the Earnings Transfer Requirement

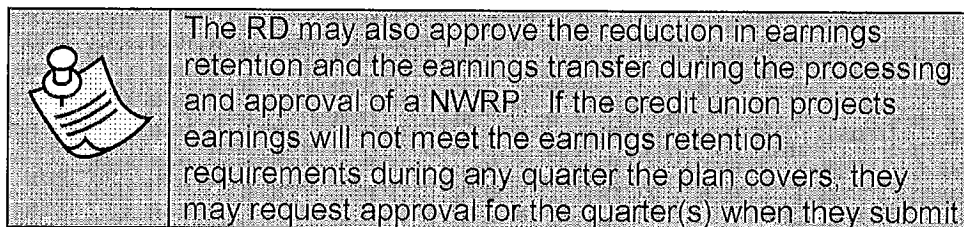
The credit union must submit a written request seeking approval to reduce the amount of Earnings Transfer no later than 14 days before the quarter-end if it cannot meet the earnings and transfer requirements. Examiners should be aware of and work with any credit unions that must meet the quarterly requirements.

At a minimum, requests for approval from the credit union must explain how the reduction in the earnings requirement is necessary to avoid a significant redemption of shares and further the purposes of PCA. "Furthering the purposes of PCA" can be documented by briefly explaining: why the credit union could not meet the quarterly earnings requirement and how management plans to resolve the earnings problem and increase net worth to meet PCA's capitalization requirements in future periods. Requests for approval that do not provide this basic information will not be processed.

Examiners must document and determine a lesser amount a) is necessary to avoid a significant redemption of shares and b) would further the purpose of PCA (as noted in 702.201(b)).

The following template letters are available related to earnings transfer waivers:

- Appendix 6-M – Earnings Transfer Letter – Incomplete Request
- Appendix 6-N – Regional Summary – Decrease in Earnings Transfer Requirements
- Appendix 6-O – Approval Letter – Decrease in Earnings Transfer Requirements. Note: Some of the sections in Appendix 6-O only applies to FICUs with Undivided Earnings deficits.
- Appendix 6-P – Denial Letter – Decrease in Earnings Transfer Requirements



	<p>their plan to the regional office. When the plan is approved, the reduction in Earnings Transfer is also approved. However, if the credit union originally projects earnings will be sufficient in their plan and then subsequently fails to meet the requirements, the appropriate request for approval must be submitted within the above timeframe.</p>
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In the case of a state chartered credit union, the supervisor will request concurrence via phone or e-mail from the appropriate SSA. The SSA will also be copied on the RD's letter to officials approving or denying the request.⁴³

Examiners will note whether the SSA concurs with approval or denial for FISCUs in the Regional Summary. Member Business Loan (MBL) Waivers

6. MBL Waivers Available Under Part 723

R&R Section	Description
§722.3 Appraisal Requirements	Use of an alternate valuation method or type of appraiser not addressed in this section.
§723.3(a) Aggregate Construction and Development Loan Limits	Waiver to exceed aggregate C&D loan limit of 15% of net worth.
§723.3(b) Minimum Borrower Equity Requirements for Construction and Development Loans	Waiver of the 25% equity interest in the project financed.
§723.7(a) LTV Ratio Requirements for MBLs	Waiver to exceed 80% loan-to-value (LTV). If a credit union intends to make a loan with an LTV in excess 80% and does not have private mortgage insurance (PMI) or the other guarantees listed in the regulation, the credit union must apply for a waiver. However, if a credit union has PMI or some other guarantee, per the regulation, they can extend a loan up to 95% LTV without a waiver. If a credit union wants to exceed 95% LTV, it must apply for a waiver.
§723.7(b) Requirement for Personal Liability and Guarantee	Waiver of the personal liability and guarantee requirement for MBLs. Waiver(s) may be granted on a single loan or as a blanket waiver with certain restrictions as outlined below. In small businesses and investor real estate lending, it is standard practice for the principal to shoulder the bulk of the risk through personally guaranteeing the loan as they generally are in a position to personally benefit the most from the success of the business entity.

⁴³ Section 702.205(c) no longer includes the earnings retention requirement of Section 702.201 as a discretionary supervisory action. This means the SSAs cannot unilaterally approve the earnings retention waiver requests of FISCUs.

§723.7(c)(2) Maximum Unsecured MBL to One Member or Group of Associated Members	Waiver to exceed aggregate unsecured MBL limit of the unsecured outstanding member business loans to any one member or group of associated members of the lesser of \$100,000 or 2.5% of net worth.
§723.7(c)(3) Maximum Aggregate Unsecured MBL Loan Limit	Waiver to exceed the aggregate amount of all unsecured outstanding MBLs of 10% of net worth.
§723.8 Maximum Aggregate NMBL to Any One Member or Group of Associated Members	Waiver for a higher amount, the aggregate amount of net member business loan balances to any one member or group of associated members must not exceed the greater of 15% of the credit union's net worth or \$100,000.

The following template letters are available related to MBL waivers:

- Appendix 6-Q – Member Business Loan Letter – 723.10 – More Information Needed – Denial
- Appendix 6-R – Member Business Loan Letter – Acknowledgement Receipt of Waiver Request
- Appendix 6-S – Regional Summary – Member Business Loan Waiver
- Appendix 6-T – MBL Waiver Checklist – Part 723.10
- Appendix 6-U – Member Business Loan Letter – 723.10 – Approval
- Appendix 6-V – Member Business Loan Letter – 723.10 – Denial

A. MBL Waiver Request Packages

As described in §723.11, MBL waiver requests must contain:

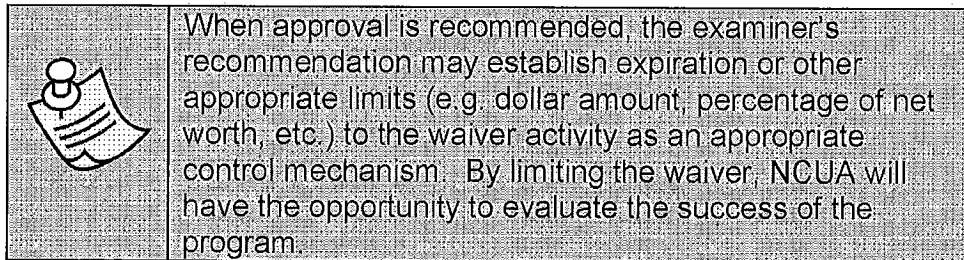
- A copy of the credit union's business lending policy;
- The higher limit sought (if applicable);
- An explanation of the need to raise the limit (if applicable);
- Documentation supporting the credit union's ability to manage this activity; and
- An analysis of the credit union's prior experience making member business loans, including at a minimum:
 - The history of loan losses and loan delinquency.
 - Volume and cyclical or seasonal patterns.
 - Diversification of risk.
 - Concentrations of credit to one borrower or group of associated borrowers in excess of 15 percent of net worth.
 - Underwriting standards and practices.

- Types of loans grouped by purpose and collateral.
- The qualifications of personnel responsible for underwriting and administering member business loans.

B. Field Responsibilities

Examiners and their supervisors are responsible for evaluating the risk posed by the MBL waiver request. During the evaluation, the examiner should review all pertinent documents (see Appendix 6-S and Appendix 6-T for list of items to review) and information to determine if an onsite contact is necessary.

If this is a new program or the examiner does not have historical information to draw upon, strong consideration to go onsite to evaluate the MBL program and the credit union's current business strategy should be given. If the waiver is complex, the examiner and/or supervisor should consider seeking assistance from a Regional Lending Specialist (RLS) who may be able to offer additional support for concurrence or denial.



C. Monitoring after Approval

- Examiners will complete the required Member Business Loan Questionnaire within AIREs.
- Examiners will ensure the credit union is compliant with the regulations and the approved waiver.
- During each contact, examiners will document compliance with the waiver in the Scope until the waiver expires or is revoked.

D. Violations after Waiver Approval

If during a subsequent examination the examiner identifies a violation of the MBL waiver, the examiner will document the violation in the examination report and treat it as a major concern. The examination will include corrective action including ceasing the activity in violation of the waiver. At a minimum, the DOR will direct the credit union to submit a written plan for resolution to the RD. The examiner will evaluate the financial severity or potential risk and make a determination, in consultation with their supervisor, whether to recommend revocation of the waiver.

If the examiner and supervisor determine the violation does not present a heightened material risk to the credit union and believes the credit union will take appropriate corrective action through examination agreements, examiners will document the violation in the Confidential Section, and provide support for the decision not to recommend revocation.

E. MBL Rule Violations

Violations of the MBL rule identified during an examination are a serious matter. Examiners and credit union management must develop an action plan to correct the violation.

If the violation is material in nature or the examiner has evidence the credit union violated Part 723 deliberately, examiners should consult with their supervisor on the need for heightened administrative action. At a minimum, the DOR will direct the credit union to submit a written plan for resolution to the RD. If the credit union fails to comply with the DOR, a RDL should be developed to compel the credit union to provide a written plan of action within a specified timeframe.

When a violation is identified, examiners need to evaluate the overall risk and determine a correct course of action. Options for correcting violations (tailored to the nature of the violation) could include:

- Divestiture of the loan;
- Sale of a participation interest in the loan to reduce the credit union's share of the loan balance;
- Directing the credit union to pursue one or more of the following actions at the first contractual opportunity (e.g. loan default, request for refinance or advance, etc.):
 - A partial pay-down of the loan;
 - Outside refinancing of the loan;
 - Additional collateral be pledged for the loan in question; and/or
 - The personal liability and guarantee of the principal(s) be obtained.
- Forbearance as granted by the RD; or
- Other action to resolve the violation.



Forbearance should not be considered if the violation poses significant financial risk to the credit union.

7. MBL Nonmember Aggregate Approval⁴⁴

Section 723.16 allows the RD or SSA to grant approval to a credit union to exceed the aggregate limit on net member business loans. The total of the credit union's net member business loan balances and the nonmember loan balances must not exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets, unless the credit union has first received approval from the NCUA RD.

The following template letters are available related to requests to exceed the MBL nonmember aggregate limit:

- Appendix 6-W – Regional Summary – Member Business Loan Nonmember Aggregate Approval – 723.16
- Appendix 6-X – Member Business Loan Nonmember Aggregate Letter – 723.16 – Approval
- Appendix 6-Y – Member Business Loan Nonmember Aggregate Letter – 723.16 – Denial

A. Nonmember Aggregate Approval Request Packages

As described in §723.16, the approval request must contain the following:

- A current copy of the credit union's member business loan policies;
- Confirmation that the credit union is in compliance with all other aspects of the rule;
- The credit union's proposed limit on the total amount of nonmember loans and participation interests the credit union may acquire if the application is granted; and
- Attestation that the acquisition of nonmember loans and participations is not being used, in conjunction with one or more other credit unions, to have the effect of trading member business loans that would otherwise exceed the aggregate limit.

8. MBL Aggregate Limit Exception⁴⁵

⁴⁴ The MBL Nonmember Aggregate Approval is a separate type of approval and not included as a type of MBL waiver allowed under Section 723.10.

⁴⁵ The MBL Aggregate Limit Exception is explained under Sections 723.17 and 723.18. An "exception" is separate and distinct from a "waiver" and handled differently.

Section 723.18 permits the RD (or SSA where applicable) to grant an exception to the aggregate MBL limit. This exception allows a credit union's member business loan portfolio to exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets. To obtain the exception, a credit union must submit documentation to the RD (FISCUs submit to the SSA) demonstrating that it meets the criteria of one of the exceptions.

Exceptions are granted based on the credit union's ability to qualify for one of three circumstances:

- Credit unions with a low income designation or participation in the Community Development Financial Institutions Program;
- Credit unions chartered for the purpose of making member business loans; or
- Credit unions with a history of primarily making member business loans.⁴⁶

Although there is no regulatory requirement, a 30 day response timeframe is recommended from the date of receipt of a complete package in the RO. The regulatory limit for an appeal is 60 days. Exceptions do not expire unless revoked by the RD or SSA.

9. NCUA Investment Pilot Program

NCUA Rules and Regulations §703.19 permits federal credit unions to request permission to engage in investment activities prohibited by regulation, but permitted by statute. Individual credit unions may apply for such approval. In addition, §703.19(c) authorizes third-party providers to seek approval.

As a prerequisite for participation in a particular third-party program, a credit union must receive permission from NCUA to participate. There are two types of requests:

- To participate in an approved third-party program; or
- To participate directly in the Investment Pilot Program.

The guidelines for processing each type of request follow.

A. Guidelines for Evaluating Participation in a New Investment Pilot Program

DOS will review incoming requests from individual credit unions for completeness. The package submitted by the credit union must contain the minimum information including:

⁴⁶ This means either business loans comprise at least 25 percent of the credit union's outstanding loans or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in a call report for 1998 or any prior three years per §723.17(c) of the NCUA Rules and Regulations).

- Board policies approving activities and establishing limits;
- A complete description of the activities, with specific examples, of how the credit union will conduct them and how they will benefit the credit union;
- A demonstration of how the activities will affect the financial performance, risk profile, and asset-liability management strategies of the credit union;
- Examples of reports the credit union will generate to monitor the activities;
- Projection of the associated costs of the activities, including personnel, computer, audit, etc.;
- A description of the internal systems used to measure, monitor, and report the activities, and the qualifications of the staff and/or official(s) responsible for implementing and overseeing the activities; and
- The internal control procedures the credit union plans to implement, including audit requirements.

The following template letter is available related to investment pilot program requests:

- Appendix 6-Z – Regional Summary – Investment Pilot Program Recommendation

B. Evaluating NCUA Investment Pilot Program Participation

Examiners will address the following items:

- Completeness of the information supporting the request;
- Major areas of risk and their respective ratings (strategic, credit, interest rate, liquidity, compliance, transaction, and reputation) from the most recent examination including the weaknesses or problems noted;
- Most recent examination CAMEL component and composite ratings; and
- Credit union's board, senior management, and the staff's capabilities of managing and monitoring the proposed investment activities.

C. Guidelines for Evaluating Requests to Participate in Approved Third-Party Programs

Depending upon the specific third-party program, an individual credit union may or may not need to obtain individual written approval to participate.

Generally, a credit union wishing to participate in a third-party program will send a request to the RD. DOS will process these requests within seven days of receipt, and respond based on the current knowledge of management and the credit union's financial stability.

DOS will seek concurrence from the examiner and supervisor via e-mail. An onsite contact is not required to make this assessment. Based on the examiner's and the supervisor's recommendation, DOS will draft either an approval or denial letter for the credit union's participation in the program. A copy of the approval or denial letter goes to the appropriate third-party vendor. The letter should not disclose any confidential information. The Region will maintain a log of all approved and denied waivers and provide an updated list to E&I not less than annually.

D. E&I Review and Due Diligence

While general Field and Regional Office responsibilities will be followed, additional review and areas of responsibility exist for approving participation in this program.

DOS will prepare the package of information, including the Regional Summary, for submission to the Office of Examination and Insurance (E&I).

E&I will review and analyze the package and, if necessary, will coordinate the review with the Office of General Counsel. E&I will provide the necessary technical research and analysis of requested pilot programs and will assist in preparing the Board Action Memorandum (BAM), coordinating the briefings of the individual NCUA Board members, and presenting the request at the NCUA Board meeting.

The regions will maintain a listing of all approved investment pilot participants and provide an updated list to E&I on request but not less than annually. E&I will periodically evaluate the statistics on the participating credit unions to determine if undue risk is present systemically.

E. Monitoring after Approval

Guidelines for monitoring investment pilot program participation are unique to each program. Upon approval for participation in the pilot program, each credit union will receive specific guidelines as necessary. E&I will provide detailed information about the program and guidance for examiners for monitoring and reporting the credit union's participation in the program.

Examiners are responsible for:

- Monitoring a credit union's participation in a pilot program, either an individual credit union pilot program or a third-party program;

- Reporting the credit union's results from participating in the pilot program in the scope of the report during each examination, and addressing any necessary corrective action in the Overview, DOR, and Examiner's Findings as appropriate;
- Annotating the investment pilot program participation on RO Problem Code #1 in the AIREs EMC; and
- Examiners may seek outside expertise from a Regional Capital Market Specialist or E&I as needed to perform an appropriate assessment. At each review, examiners must determine if participation in the pilot presents a risk to the credit union. In the event the investment presents significant risk, examiners will consult with their supervisor and contact their regional DOS to discuss what actions to take.

E&I will:

- Have specialized training for the Regional Capital Market Specialists to assist examiners in evaluating the program; and
- E&I will assist examiners in required monitoring and reporting by the participating credit union.

10. Changes of Officials for Troubled and Newly Chartered Credit Unions

Under §701.14 of NCUA Rules and Regulations, federally insured credit unions meeting certain conditions (see "Affected Credit Unions" section below) must obtain the RD's approval for personnel changes (i.e., board of directors, credit or Supervisory Committee, or senior executive officer) at least 30 days prior to the effective date of the change, or within 48 hours of election at an annual membership meeting. For state-chartered federally insured credit unions, NCUA will consult with the appropriate state supervisory authority before making a final decision.

The regulation requires written notice from the credit union and RD approval before an individual can begin service at the credit union. The only exceptions to this requirement are if the credit union requests and the RD waives prior notice, 12 C.F.R. 701.14(c)(2)(i), and, in the case of the election of a new member of the board of directors or credit committee member, 12 C.F.R. §701.14(c)(2)(ii). In the case of a newly elected member of the board of directors or credit committee member, the 30-day prior notice is "automatically waived" and the individual may begin serving but, within 48 hours, a complete notice as required under the regulation must be submitted to the RD. If a RD grants a prior notice waiver or in the case of a new elected director or credit committee member, the RD can still deny the individual and will have 30 days after receipt of the notice and information.

A. Required Information

The credit union must submit the Notice of Change in Official or Senior Executive Officer NCUA Form 4063 and Individual Application for Approval of Official or Senior Executive Officer NCUA Form 4063a to obtain the RD's approval for the replacement of certain credit union employees and all officials. The Individual Application for Approval of Official or Senior Executive Officer will be completed and signed by the individual for whom the credit union is seeking approval. FISCUs shall also file a copy of these forms with their state supervisor.

B. Affected Credit Unions

- Chartered within the past two years;
- For FCUs assigned a CAMEL composite rating of 4 or 5 by NCUA or, for FISCUs, an equivalent of CAMEL 4 or 5 by the SSA; or
- Credit unions granted assistance under the Federal Credit Union Act §208 or §216.

C. Timeframes for Approval

Approval is automatic if a completed application is not denied within 30 days of receipt.

D. DOS Responsibilities

Initial Notice Procedures: Within ten calendar days after receiving the notice, the RD will inform the credit union whether the notice is complete (Appendix 6-AA) or that additional, specified information is needed (Appendix 6-BB) and must be submitted within 30 calendar days.

- Receipt of Incomplete Package: If the initial notice is not complete, the RD will issue a written decision within 30 calendar days of receipt of the original notice plus the amount of time the credit union takes to provide the requested additional information. If the additional information is not submitted within 30 calendar days of the RD's request, the RD may either deny the proposed individual or review and take action on the notice based on the information provided.
- Receipt of Complete Package: If the initial notice is complete, the RD will issue a written decision of approval or denial to the individual and the credit union within 30 calendar days of receipt of the notice. Upon receipt of a complete package, DOS will then:
 - Obtain a credit report;

- Email the application, credit report, and other information to the supervisor (with a courtesy copy to the examiner) requesting a recommendation for approval or denial; and
 - Conduct a review of the Suspicious Activity Report database to determine if additional investigation into the applicant's background is warranted. The regions may request OGC perform a Criminal Background search on the applicant if determined necessary. However, regions should keep in mind that the results of the criminal background search may not be available until after the statutory response date passes. This does not allow the statutory response date to be extended.
- If the credit report contains adverse credit information, the RD will issue a letter to the applicant (Appendix 6-CC is a pre-adverse action disclosure letter; Appendix 6-DD is a denial letter) encouraging them to provide an explanation. DOS will provide the applicant a copy of the credit report containing the adverse credit information via certified mail to the applicant's private address. The credit union will not be copied on this correspondence.

E. Field Responsibilities

- The examiner will recommend approval or denial and email the recommendation to their supervisor.
- The supervisor reviews the examiner's recommendation. Following the standard in Section F, Approval Process (below), the supervisor will email a final recommendation to the RO.
- The examiner, supervisor, or DOS may request a criminal background search on the individual if concerns arise during the review.

F. Approval Process

Upon receipt of the examiner's recommendation, DOS will review and analyze the recommendation for appropriate support and justification.

If DOS and/or the RD do not agree with the field recommendation, the supervisor will be contacted to discuss further, as time permits. The field will be given the opportunity to further support or revise their recommendation. DOS finalizes the response letter for the RD and upon signature, mail it to the credit union via expedited mail and copies both the examiner and supervisor.

If the application is approved, DOS will send a letter informing the individual of NCUA approval of employment or official association (Appendix 6-EE) with the credit union with a copy to the credit union, examiner, and supervisor.

G. Grounds for Denial

The RD will provide specific reasons for denial based on the authority of §701.14(e) of the NCUA Rules and Regulations.

The RD will not approve the request when the individual's competence, experience, character, or integrity is not in the best interest of the credit union's members or the public.

Examples of grounds for denial include:

1. Lack of bondability.
2. Fraud convictions.
3. Unsatisfactory work performance in the financial sector.
4. Weak personal financial condition.
5. Omission of significant information relevant for job consideration.

If the application is not approved, DOS will send a copy of the denial letter (Appendix 6-DD) to the credit union, the individual, the examiner, and the supervisor by using their preferred expedited mail delivery service. The letter will:

- Summarize the reasons for denial; and
- Inform the credit union and the individual of their rights to file a written request for reconsideration to the RD within 15 calendar days of receipt of the notice of denial, or file an appeal directly with the NCUA Board.

H. Request for Reconsideration and/or Appeal to the NCUA Board

As stated above, the denial letter will inform the credit union of their option to request reconsideration by the Regional Director or the option to appeal the decision directly to the NCUA Board. The request for reconsideration must be in writing to the RD and contain the specific reasons why NCUA should reconsider its denial. The request must include any relevant previously omitted material and/or relevant documents not previously available.

Examiners should not discourage a credit union from filing an appeal. There is a 15-day window to file an appeal following notice of denial. The credit union may appeal the decision before or after requesting RD reconsideration. Part 747(subpart J) of NCUA Rules and Regulations provides guidance for the appeal.

I. Waiver of 30 Day Notification Requirement

In some instances, a credit union may request a waiver of the 30 day advance notification requirement and fill a vacancy until the region has time to process their

application package. In these cases, the regional office can issue a letter with an interim approval (Appendix 6-FF), until the region has time to process the request.

J. Withdrawal of Application

If a credit union chooses to withdraw their application, the regional office will send an acknowledgment letter (Appendix 6-GG) to inform the credit union they are aware of the credit union's withdrawal.

Appendix 6-HH

Waiver Types and Timeframes

R&R Section	Description	Timeframe	Automatic Approval?
Member Business Loans			
§722.3 Appraisal Requirements	Use of an alternate valuation method or type of appraiser not addressed in this section.	None	No
§723.3(a) Aggregate Construction and Development (C&D) Loan Limits	Waiver to exceed aggregate C&D loan limit of 15% of net worth.	45 Days	Yes
§723.3(b) Minimum Borrower Equity Requirements for Construction and Development Loans	Waiver of the 25% equity interest in the project financed.	45 Days	Yes
§723.7(a) LTV Ratio Requirements for MBLs	Waiver to exceed 80% LTV, or 95% LTV with PMI or some other guarantee allowed per the regulation.	45 Days	Yes
§723.7(b) Requirement for Personal Liability and Guarantee	<p>Waiver of the personal liability and guarantee requirement for the specific MBL.</p> <p>Waiver(s) may be granted on a single loan or as a blanket waiver with certain restrictions as outlined below. In small businesses and investor real estate lending, it is standard practice for the principal to shoulder the bulk of the risk through personally guaranteeing the loan as they generally are in a position to personally benefit the most from the success of the business entity.</p>	45 days	Yes
§723.7(c)(2) Maximum Unsecured MBL to One Member or Group of Associated Members	Waiver to exceed aggregate unsecured MBL limit of the unsecured outstanding member business loans to any one member or group of associated members of the lesser of \$100,000 or 2.5% of net worth	45 Days	Yes

§723.7(c)(3) Maximum Aggregate Unsecured MBL Loan Limit	Waiver to exceed the aggregate amount of all unsecured outstanding MBLs of 10% of net worth	30 Days	No
§723.16(2) Aggregate Member Business Loan Limit	To request approval from the NCUA regional director, a credit union must submit an application that: Includes a current copy of the credit union's member business loan policies; Confirms that the credit union is in compliance with all other aspects of this rule; States the credit union's proposed limit on the total amount of nonmember loans and participation interests that the credit union may acquire if the application is granted.	30 Days	N/A <i>(mandates a 30 day time frame but does not state automatic approval)</i>
§723.8 Maximum Aggregate NMBL to Any One Member or Group of Associated Members	Waiver for a higher amount, the aggregate amount of net member business loan (NMBL) balances to any one member or group of associated members must not exceed the greater of 15% of the credit union's net worth or \$100,000.	45 Days	Yes
Other waiver types			
§701.14 c(2)(i) Waiver of Prior Notice – Change in Official or Senior Executive	Parties may petition the appropriate Regional Director for a waiver of the prior notice required. Waiver may be granted if it is found that delay could harm the credit union or the public interest.	None	No

<p>§701.21(h) Third-party servicing of indirect vehicle loans.</p>	<p>(1) A federally-insured credit union must not acquire any vehicle loan, or any interest in a vehicle loan, serviced by a third-party servicer if the aggregate amount of vehicle loans and interests in vehicle loans serviced by that third-party servicer and its affiliates would exceed:</p> <p>(i) 50 percent of the credit union's net worth during the initial thirty months of that third-party servicing relationship; or</p> <p>(ii) 100 percent of the credit union's net worth after the initial thirty months of that third-party servicing relationship.</p> <p>(2) Regional directors may grant a waiver of the limits in paragraph (h)(1) of this section to permit greater limits upon written application by a credit union.</p>	<p>None</p>	<p>No</p>
<p>§715.9c(6) Audit waiver</p>	<p>Specify a target date of delivery of the written reports. Such target date not to exceed 120 days from date of calendar or fiscal yearend under audit (period covered), unless the supervisory committee obtains a waiver from the supervising NCUA Regional Director</p>	<p>None</p>	<p>No</p>

Chapter 7 – Credit Union Service Organizations (CUSO)

A CUSO is an organization owned wholly or in part by one or more credit unions to provide service to credit unions, members, or both. Part 712 of NCUA Rules and Regulations regulates FCUs investments in or loans to CUSOs. Some sections of Part 712 are also applicable to FISCUS.

§712.3 (d)(3) requires both FCUs and FISCUs have a written agreement with their CUSO to provide NCUA with complete access to any books and records and allow NCUA to review internal controls as deemed necessary. While NCUA does not have regulatory authority over CUSOs, the agency periodically performs reviews of CUSOs providing service to credit unions and their members.

This chapter explains how risks in CUSOs will be identified, the process by which reviews will be scheduled and staffed, and how CUSO review reports will be distributed and maintained.

1. General Responsibilities Regarding CUSOs

A. Examiner Responsibilities

Examiners are responsible for identifying potential problems in CUSO-provided services based on information gathered during routine credit union reviews and insurance reviews. Examiners will document concerns in the Scope Module of the review or insurance review which will serve as the primary mechanism for documentation of these issues. Examiners are responsible for recommending to the Regional Office, through their supervisor, any CUSOs they recommend receive an exam.

B. Supervisor Responsibilities

Supervisors will coordinate with examiners to identify CUSOs whose operations may be posing potential risk and in need of a review. Supervisors are responsible for reviewing the yearly CUSO review recommendations provided by their examiners and forwarding the CUSOs representing the highest degree of risk or concern to their Regional Office on a yearly basis.

C. Regional Office Responsibilities

The Regional Office is responsible for reviewing the CUSO review requests sent in by the supervisors. The Regional Office will determine which CUSOs will receive a review based on the CUSO's risk profile and resources available. The Regional Office will be responsible for maintaining a yearly CUSO review list and distributing the list to the supervisors and E&I.

ROs will process CUSO reports and review for quality. ROs are also responsible for distributing the final CUSO report including any response to the report by

CUSO management to the appropriate parties, both internal (regional and central offices) and external (SSAs, credit union owners/investors), when significant concerns exist.

D. E&I Responsibilities

E&I will monitor the national status and trends of CUSOs via data available from established information systems. E&I will use this information, along with CUSO reviews, to evaluate risk mitigation and control and identify weaknesses in overall CUSO supervision processes. E&I will maintain the SharePoint database of CUSO reviews along with the planned CUSO review list for the current year.

2. Selection, Scheduling & Staffing CUSO Reviews

As part of the resource budget development, ROs will solicit recommendations from the field regarding recommended CUSO reviews. Recommendations should come from examiners through supervisors, as applicable.

By November 30th of each year, ROs will finalize a list of CUSOs to review in the upcoming year based on solicited recommendations from supervisors and additional analysis. The selection of CUSO reviews will be based on risk to credit unions affiliated with the CUSO whether they have investments or loans to the CUSO or are dependent on its services. The list will be distributed to the supervisors with a copy to all regional directors and E&I by the November 30th date.

The supervisor supervising the area where the CUSO's headquarters is physically located will be responsible for scheduling and staffing the review. Some CUSO reviews may be assigned to DSA by the RD depending on the severity of the issues and/or the systemic risk that the entities may pose. In these cases, DSA will be responsible for scheduling and staffing the CUSO review. ROs can be contacted for assistance in obtaining expertise outside of the supervisor's group or the region. This may be an opportunity to bring in SMEs or other specialized resources available through E&I, including IS&T or commercial lending specialists.

3. Scope of Review

Chapter 25 of the Examiner's Guide provides guidance on the review's scope. Generally, the review should determine the risk to investing or lending credit unions as well as affiliated credit unions. Risks to the credit union system as a whole (i.e. systemic risk) should also be considered. The review should assess the on-going viability of the CUSO and should ensure the CUSO is engaging in approved activities or services per Part 712 of NCUA Rules and Regulations or applicable state laws and statutes.

Examiners should use Appendix 7-A – CUSO Review Checklist as a guide when performing a CUSO review recognizing that CUSO structures and services can vary greatly. The scope of the contact should be tailored to the risk posed by the products and services offered by the CUSO.

Some issues identified at the review may need to be addressed with individual investing or lending credit unions. For example, when investing credit unions are over the statutory limit or they do not have required written agreements, it is a violation of the credit union investing in the CUSO. These issues will be brought to the attention of the CUSO's management; in addition, this information should be shared with the supervisor and examiner of the investing credit union.

4. CUSO Report & Workpapers

In general, the format of the CUSO report is at the EIC's discretion; however, there are six mandatory documents (when applicable):

- Report Cover Page
- Executive Summary
- Recommended Corrective Actions⁴⁷ (when applicable)
- Report Findings (when applicable)
- Loan Exceptions (when applicable)
- Confidential Section

These required work papers should be formatted as outlined in Appendix 7-B (1-6).

The report should also include:

- Background information of the CUSO
- List of CUSO officials/senior management (including their backgrounds)
- CUSO's organizational chart
- List of credit unions invested in, loaned to, or affected by the CUSO and their level of involvement
- Scope of the review
- Financial data and trends
- List of services offered by the CUSO

The Confidential Section will include:

- Level and description of risk identified (may be included in narrative)
- Resolution of unacceptable risk, if applicable
- Status of opinion audit
- Information on legal opinion (when CUSO was formed and any subsequent)
- Any significant organizational changes occurring after the legal opinion was proffered
- Follow-up supervision plans/recommendations

The examiner should consult with the supervisor regarding the results of the review. If the supervisor believes there are critical issues or potentially controversial findings, the supervisor will recommend DOS review the report prior to issuance and distribution (see

⁴⁷Examiners are not to use the DOR module for CUSO reports.

specific process outlined below). However, if there are no material concerns, the report may be issued prior to DOS review. The reviewer's work papers should be in electronic zipped form and submitted to the Regional Office along with the formal report.

5. Distribution of Review Results

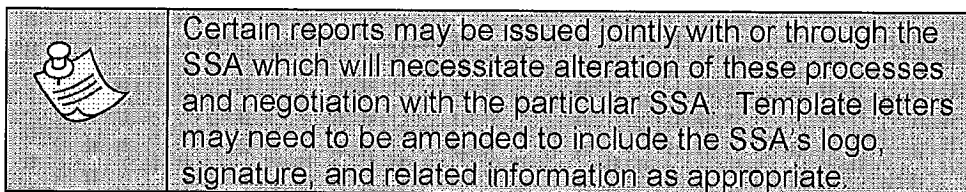
Upon completion of the draft report, the EIC will forward the draft report to their supervisor for review. The supervisor, in consultation with the EIC, will determine the severity of the issues identified and if Regional Office involvement is necessary.

Within 60 days of the last day onsite, a meeting with the CUSO board or key management (depending on the severity of the issues of the review) will be held to discuss material concerns and obtain formal agreements with the officials to correct CUSO deficiencies. A final report will be distributed by the EIC to CUSO officials at that time using the cover letter in Appendix 7-B.

For CUSOs with material concerns necessitating Regional Office involvement, the process below will be initiated:

- Draft Report - The EIC will forward a draft report to their supervisor for review and pre-release appraisal. The supervisor will forward the report to DOS mail which will be logged with a 14 day review period. The responsible DOS analyst will review, edit/clarify as necessary, and format the draft report along with a cover letter to the CUSO and copy to the SSA (if applicable).

DOS will send the report marked as "draft" to CUSO management and the SSA (if applicable) and request a response to be sent to the RD's attention within 30 days of receipt by the CUSO. DOS will use Appendix 7-C as a template for this transmittal letter to the CUSO and Appendix 7-D as a template for the transmittal letter to the SSA.



- Management Response – Once received, the response from CUSO management will be reviewed by the EIC within 14 days. The EIC will record conclusions of the review of management's response and make any necessary changes to the report.
- Final Report – DOS and the EIC will come to agreement within 30 days of receipt of management's response on final report content and DOS will edit the draft report before finalizing. DOS will add management's response as an attachment to the report and prepare a cover letter for final distribution of the report to CUSO management using Appendix 7-E. Both the SSA (if applicable) and the EIC (and/or district examiner if different) will be copied on the final report distribution.

The final report will be distributed to federally insured credit unions with loans to or investments in the CUSO for their due diligence. The Regional Office will perform the distribution with the standard cover letter in Appendix 7-F. Distribution should occur within 30 days of the issuance of the report to the CUSO officials.

6. Maintenance of CUSO Review Reports

E&I will maintain a CUSO SharePoint site which will serve as the central repository for all agency CUSO reviews. E&I will organize CUSO reviews by EIN numbers and will identify CUSOs by name for ease of reference.

Once CUSO reports are finalized and distributed to appropriate CUSO stakeholders by the regions, regional DOS will upload these reviews in zip file form to the CUSO SharePoint site and send an email to E&I Mail and to all other regional DOS mailboxes alerting them to the upload. E&I DOS staff will amend the master EIN/CUSO list if necessary and ensure appropriate links are maintained to actual CUSO files within seven days of upload notification.

To ensure consistency in the upload process, regions will:

1. Zip all CUSO review files so that only one file for each separate CUSO review is uploaded to the system.

Name the zip file as follows: YYYYMM_EIN (where the YYYYMM is the effective date). For example, a CUSO with an EIN of 987654 and an examination effective date of June 30, 2007, would be named 200706_987654.zip.

2. Upload the zip file to the appropriate existing EIN folder or create a new file folder for the CUSO using the CUSO EIN to name the folder if one doesn't already exist. For example, a CUSO with an EIN of 987654 would have a folder identified as 987654 (with no other characters in the name). All examinations for this CUSO will be housed in this folder. It is imperative that EINs are accurate as this is the primary identifier for the CUSO.

7. SSA Involvement

CUSO reviews may be performed jointly with the SSA. Typically, the agency initiating the review will be in charge of the review. Even if the SSA is not involved with the review, an invitation to the final meeting with management should be extended to the appropriate SSA when the CUSO has state-chartered credit unions invested in or loaned to the CUSO. In these cases, a draft copy of the report should be provided to the SSA at least 3 business days prior to the meeting with CUSO officials to allow the SSA sufficient time to review the report findings.

8. SSA CUSO Reports

SSAs may complete independent CUSO reviews or issue CUSO reports based on joint contacts with NCUA representatives. CUSO reviews completed and issued by an SSA will be reviewed by ROs and posted to the E&I SharePoint site within 30 days of receipt.

DOS will prepare a summary of the CUSO and SSA exam results and develop areas of concern and conclusions based on the report. The depth and breadth of this review will depend on the nature of the CUSO being examined. Analysis of investor, lender, or client credit unions may be appropriate in certain cases. The review comments will be routed along with the CUSO report to regional management. Upon its return, the report should be posted to the E&I SharePoint site in the same manner as one completed by NCUA. The review comments and report should be distributed to supervisors with responsibility for the CUSO's trade area and/or to supervisor's with responsibility for any investor credit unions.

Chapter 8 – Office of Small Credit Union Initiatives (OSCUI) and the National Small Credit Union Program (NSCUP)

In December 2004, the NCUA Board created the Office of Small Credit Union Initiatives (OSCUI) to focus on providing guidance, assistance, and information on development opportunities to small, new, and low-income designated credit unions nationwide. OSCUI's goal is to ensure long-term viability and growth of these credit unions through four primary functions ---Training, Financial Assistance, Consulting, and Partnership Opportunities (TAP). Training is delivered to various size audiences of credit union staff and officials during workshops, roundtables, videos and webinars. Financial Assistance is for those credit unions holding a low-income designation through the Community Development Revolving Loan Fund (CDRLF). Consulting is delivered by Economic Development Specialists (EDSs) who provide hands-on consulting services for operational and strategic management to credit unions. Partnerships are fostered between credit unions, governmental entities, community based organizations, and the credit union industry. OSCUI identifies programs and services that help credit unions meet their members' needs. This includes providing access to materials through the OSCUI web site.

1. Direct Assistance

Economic Development Specialists (EDSs), through the Office of Small Credit Union Initiatives (OSCUI), provide individualized training and assistance to credit unions on a variety of operational and strategic management issues. NCUA Instruction 6054 (Rev. 2) establishes guidelines for the Small Credit Union Program (SCUP). The SCUP provides assistance to:

- All credit unions which hold a federal charter or have NCUSIF coverage; and
- Credit unions with less than \$10 million in assets requesting help with a Net Worth Restoration Plan (NWRP).

Additionally, any potential new charter groups which have their field of membership pre-approved by NCUA are eligible for enrollment in the NSCUP. Thus, EDSs are available to assist all potentially viable organizing groups to define their fields of membership, develop their business plans, and complete their chartering packages, as necessary.

2. Referral and Enrollment Process

OSCUI relies on a three tier referral process for determining eligible candidates for possible enrollment in the NSCUP. The referrals are possible through regional staff, or recommendation by an EDS or self-nomination by the credit union (they directly contact OSCUI requesting enrollment). The NSCUP is open to both federal and federally insured state-chartered credit unions.

In addition, there may be emergency situations, as defined by NCUA management, in which EDS assistance is needed. For example, in 2005, Region IV requested EDS assistance for small New Orleans credit unions in the aftermath of Hurricane Katrina. In 2010, OSCUI assisted many credit unions across the country who submitted applications for secondary capital under the U.S. Treasury Department's Community Development Capital Initiative.

Credit unions selected for assistance are enrolled into the NSCUP biannually. Regional SCUP liaisons meet with OSCUI representatives in June and December to discuss available EDS hours and potential candidates for enrollment. Those credit unions admitted into the NSCUP are assisted during the upcoming time period, and then released from the program.

Once a credit union is enrolled into the NSCUP, OSCUI will assign an EDS. The examiner, SE, and Regional SCUP Liaison will receive an email from OSCUI confirming the credit union's enrollment with the assigned EDS copied on the email.

There are two exceptions to the standard enrollment period. SCUP will accept at any time requests for NWRP assistance from small credit unions. Also, solicitations for emergency assistance do not have to wait for the normal enrollment cycle.

3. Key Training or Consulting Available

The key training or consulting the EDSs provide to credit unions enrolled in the NSCUP focus on:

- Performing on or off-site assistance related to operational and strategic issues;
- Providing on or off-site assistance for newly-chartered credit unions;
- Providing referrals to outside entities which can render desired assistance.
- Providing assistance to credit unions applying for grants and NCUA's low-income designation;
- Facilitating expansions of member services and fields of membership; and
- Assisting groups seeking to form a new credit union.

Various types of assistance is provided to credit unions enrolled in the NSCUP for operational management issues. Examples include:

- Net Worth Restoration Plan (NWRP)/Revised Business Plan (RBP) Development;
- Recordkeeping;
- Budgeting;
- Internal Controls;
- Lending;
- Policy Development (Lending, Investments, Collections, Asset-Liability Management, Disaster Recovery, Consumer Compliance, Bank Secrecy

Act/Office of Foreign Assets Control compliance, Identity Theft Prevention Program, etc.); and

- Any other operational areas not included above.

§702.206(b) of NCUA Rules and Regulations specifically provides for NCUA assistance to small credit unions in developing a NWRP. In addition, §702.307 of NCUA Rules and Regulations provides for assistance to “new” credit unions (in operation less than 10 years) in developing a RBP as well as periodic training. Accordingly, the OSCUI EDSs act as a value-added resource to credit unions that need assistance in developing NWRPs or RBPs, or need training on a variety of operational or strategic areas.

OSCUI will make the best effort to include referred credit unions in the NSCUP. Priority consideration is given to the above criteria, most notably the development of NWRPs/RBPs emergence assistance and new charter organizers; since these requests are time-sensitive. However, inclusion will be based on available resources and priority rankings. Credit unions not selected for the NSCUP will remain eligible for consideration in future open season reviews.

4. Relationships with OSCUI, Field Staff, and the Regional Offices

EDSs will coordinate with the EIC (examiner in charge) to work with assigned credit unions. Examiners will follow the guidelines from NCUA Instruction 6054 (Rev.1) for requesting EDS assistance from the OSCUI.

A. Examiner Responsibilities

- Determine which credit unions would benefit from EDS assistance, and consider referring for program enrollment;
- Contact their supervisor for program enrollment approval before completing the EDS Direct Form (Economic Development Specialist Request Form);
- Complete the EDS Direct Form (b)(5)
 - Provide detailed comment of what type of assistance is needed from the EDS;
 - If the request includes NWRP assistance, the examiner should promptly submit the EDS request in order to meet regulatory timeframes. The EDS request should state specific timeframes for completion. The examiner should mark the request as a “Priority Request” within the EDS Direct Form; and
 - If the request includes assistance relating to DOR items, the examiner should include timeframes for completion as stated in the DOR.

Once a credit union is accepted into the program, OSCUI will notify the district examiner, supervisor, and regional SCUP liaison and will assign an EDS to the credit union. The EDS will be responsible for establishing communication with the district examiner within thirty business days of assignment. Once the EDS contacts the examiner, the examiner will:

- Create a clear understanding of the issues and what needs to be done during the contact with the EDS;
- Discuss any DOR items, Examiner's Findings, etc. pertaining to the assistance being provided prior to the EDS going onsite;
- Inform DOS in the Regional Summary when an EDS assisted in developing the NWRP or RBP;
- Emphasize any additional training/assistance recommended by the EDS to credit union officials; and
- Provide feedback to OSCUI via the e-survey attached to each SYSAires notification (as applicable).

B. Supervisor Responsibilities

- Discuss and recommend either approval or denial into the program with their examiner; and
- Provide feedback to OSCUI via the e-survey attached to each SYSAires notification (as applicable).

C. DOS Responsibilities

- Review incoming requests and either deny or approve the request for biannually negotiations with OSCUI on enrollment consideration;
- Notify respective field staff of referred credit unions not selected for enrollment during the biannual review;
- Copy the Director of OSCUI on any outgoing NWRP and RBP approval or denials in which an EDS assisted;
- When applicable, provide feedback to OSCUI via the e-survey attached to each SYSAires notification (e-survey results are displayed on NCUA Central under Applications);

D. OSCUI Responsibilities

- Prioritize EDS requests (priority will be given to NWRPs, emergency requests and new charter organizers;
- Assign an EDS upon enrollment of the credit union into the NSCUP; and
- Communicate normal approval of requests/enrollment during the first five business days of July and January to the Regional SCUP Liaison(s).

E. EDS Responsibilities

- Contact the district examiner within thirty days of enrollment, and then ten business days prior to actually starting work to establish communication and begin dialogue of issues involved in the request;
- Discuss any DOR items, Examiner's Findings, etc. pertaining to the assistance being provided with the examiner prior to going onsite;
- Contact the examiner via email prior to scheduling contact with credit union;
- Schedule the contact and once the contact begins, complete the contact within 60 days;
- Answer any questions the examiner might have regarding the assistance provided;
- Provide the examiner with a draft of the NWRP prior to closing out and completing the contact. The examiner will have the opportunity to look over the draft and address any concerns they might have with the draft NWRP and provide the EDS with any additional information to be included in the plan; and
- Recommend to OSCUI releasing the credit union from the NSCUP once the requested work is completed.

Chapter 9 – Bank Secrecy Act (BSA) Enforcement

This chapter is designed to equip examiners with information regarding their role in enforcing BSA in credit unions. The objective of this chapter is to set forth a framework for a high quality BSA examination program in an effort to mitigate credit unions' compliance risk and ensure federally-insured credit unions comply with all applicable regulations.

1. Suspicious Activity Report (SARs)

A. When to File a SAR

Credit unions must file a SAR when it knows or suspects that:

- The funds come from illegal activity or disguise funds from illegal activity;
- Insider abuse of any amount;
- The transaction is structured to evade the credit union's requirements or appears to serve no known business or apparent lawful purpose; or
- The credit union is being used to facilitate criminal activity.

B. SAR Filing Information

Suspicious Activity Report by Depository Institutions (TD F 90-22.47), is the proper form credit unions should use to report suspicious activity. The credit union has 30 calendar days to file a suspicious activity report after becoming aware of a suspicious transaction. If the situation appears urgent, the credit union should immediately notify the appropriate law enforcement authority and file the appropriate form. If the credit union suspects that a transaction may be linked to terrorist activity, the credit union should immediately call the FinCEN Financial Institutions Hotline at (800) 556-3974.

Examiners: will review SAR filing processes during examination/supervision contacts and focus their review on the credit union's' process for detecting suspicious activity. Examiners will also review newly filed SARs for appropriateness and compliance with FinCEN's regulation. Should the officials fail to act, examiners will notify their supervisor. The supervisor will notify the ARDP who will consult with OGC regarding appropriate administrative action.

Supervisors and Regional DOS: will monitor significant SAR filings quarterly to determine if additional or enhanced supervision is required.

E&I: will periodically review significant SAR filings to identify potential national risk trends.

2. Requesting Currency Transaction Reports (CTRs), Suspicious Activity Report (SARs), and Designation of Exempt Persons (DOEPs) Histories

Examiners can request a listing of the CTRs, SARs, and DOEPs filed by a credit union by sending an e-mail to their regional DOS mailbox with the full name, address, and Employer Identification Number (EIN) of the credit union. When requesting a download from DOS, examiners should include a specific timeframe for the request (e.g. January 1, 2011 - October 1, 2011).

Examiners may obtain the listing of CTRs, DOEPs, and SARs filed by a credit union, prior to starting an examination as a scoping tool for the BSA review.⁴⁸ A change in filings (decrease or increase) could be an indicator of a problem and may require attention during the examination. The information may be sorted in various ways to enable examiners to identify trends of certain customers or accounts, which could warrant further review during the examination.

Examiners should also verify that the credit union has actually filed CTRs or SARs with the appropriate agency, particularly when there is insider activity.

(b)(5)

3. BSA Enforcement

When examiners identify material BSA program deficiencies and/or compliance violations, targeted enforcement will should be implemented to resolve supervisory concerns timely. In implementing enforcement action, examiners should:

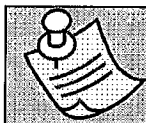
- Attempt to have the credit union resolve deficiencies during the examination process;
- Document the review using the AIREs BSA questionnaire, examination scope, and supporting work papers as needed;
- Identify, track, and resolve significant BSA violations - this includes issuing a PWL or similar administrative action as necessary;
- Complete the CCV Module with the appropriate citation if applicable (report all significant BSA violations as Regulation code BSA-S);

⁴⁸ Suspicious activity reports filed under the BSA must be treated with particular care given that they contain unsubstantiated allegations of possible criminal activity, akin to confidential informant tips. Such reports, or the fact they have been filed, may not be disclosed by a government employee to any person involved in the transaction, "other than as necessary to fulfill the official duties of such officer or employee." 31 U.S.C. 5318 (g)(2)(ii). Unauthorized release of information collected under the BSA may result in criminal or civil sanctions.

- Discuss BSA violations in the open section of the report;
- Prepare a DOR, if applicable;
- Indicate the appropriate level of compliance and other risks in the Scope Module;
- Ensure the adequacy of the credit union's BSA program is considered when assessing and rating management;

(b)(5),(b)(8)

- Document resolution of BSA violations through the CCV Module; and
- Report discovery of money laundering activities or other high profile BSA violations to DOS through their supervisor.



Your primary resource is the FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual.
http://www.ffiec.gov/bsa_aml_infobase/pages_manual/manual_online.htm

4. BSA Violations

A. AIREs Consumer Compliance Violations (CCV) Module

As mentioned above, examiners must complete the CCV Module in AIREs for the BSA violations that have been identified during the examination/supervision contact. In completing the CCV Module, examiners should:

1. Combine multiple violations of the same regulation into a single citation within the CCV Module.
2. Utilize the CFR citation over the equivalent NCUA regulatory citation wherever possible.
3. Identify all significant BSA violations as "BSA-S" in the Regulation code column.

(b)(8)

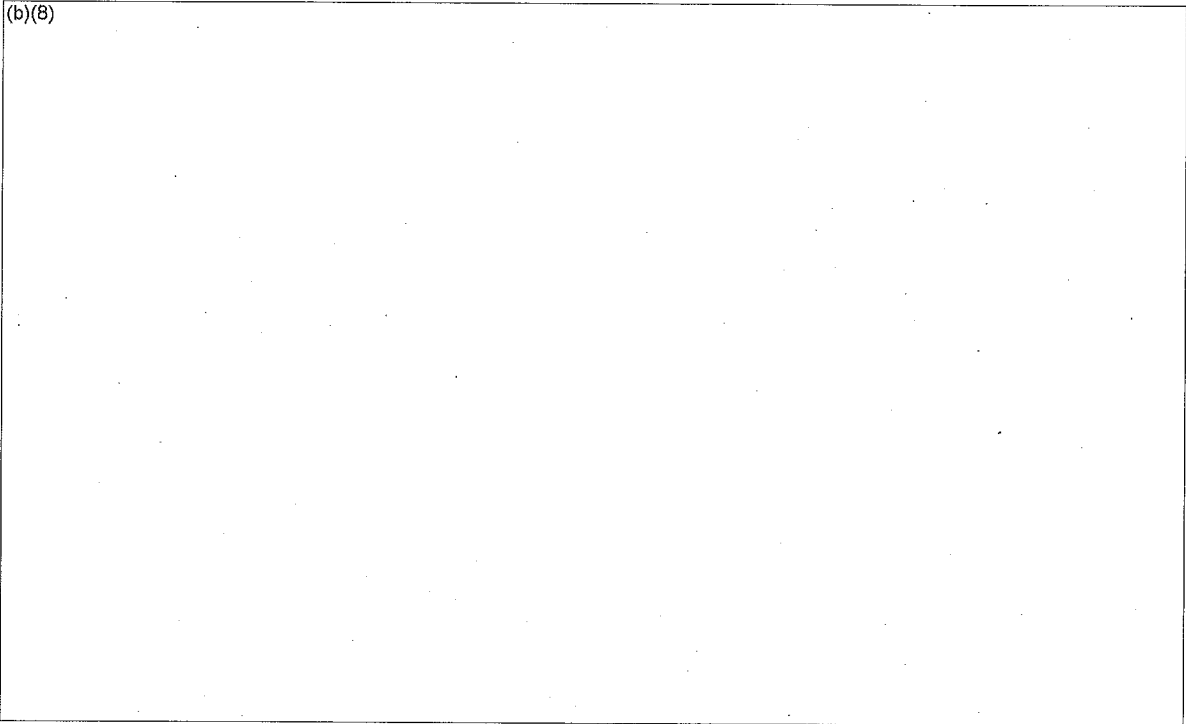
(b)(8)

5. Identify the management response taken using the drop-down menu within the CCV Module. These responses within the CCV Module play a critical role in the Regional Office tracking of resolved BSA-S violations.

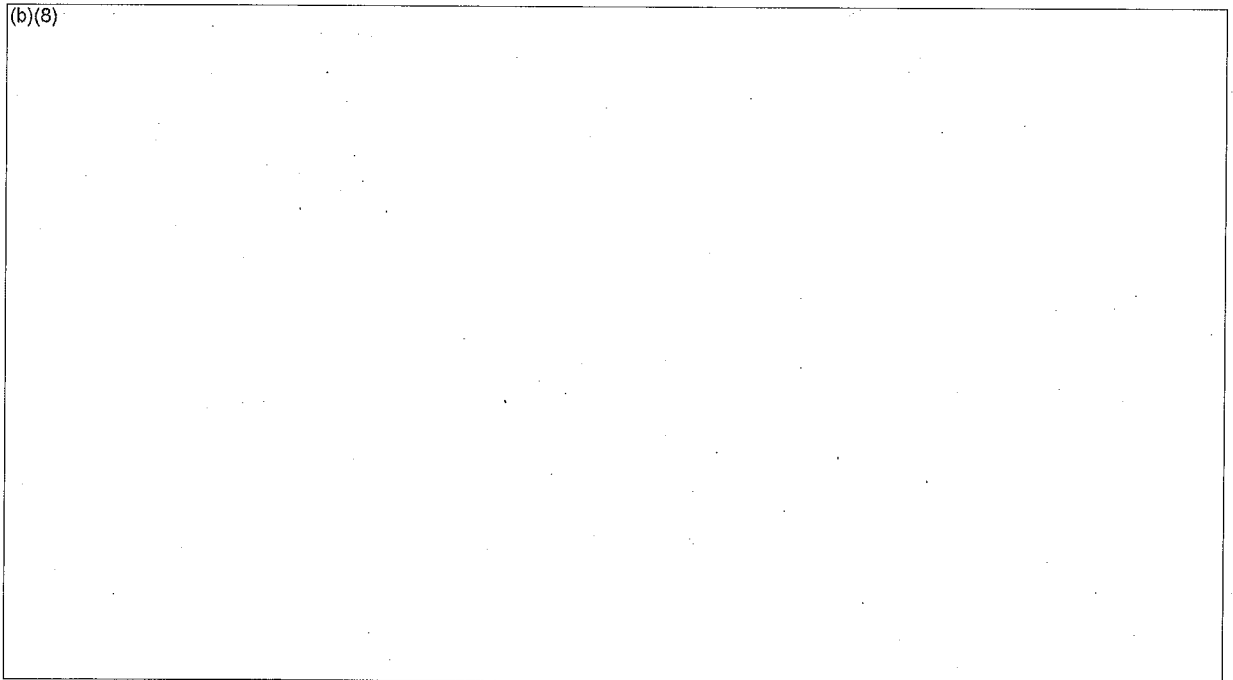
(b)(8)

(b)(8)

DOS provides supervisors a report of outstanding BSA violations each quarter. For significant BSA violations outstanding an unreasonable length of time, supervisors should follow-up with examiners to assess the status of corrective action.



Based on the severity of the violation, the timeframes for administrative action can be accelerated. §206 of the Federal Credit Union Act contains a list of applicable administrative actions.



B. FISCUs

SSAs conduct BSA examinations at FISCUs. Regional Directors may reach agreements with SSAs for NCUA examiners to conduct the BSA examination at FISCUs. These agreements will vary based upon the SSA.

(b)(8)



NCUA has the enforcement authority for FISCUs examined⁴⁹ by NCUA (SSA has authority to review). During joint examinations, NCUA examiners can allow the SSA to review BSA, but the NCUA examiner must review the SSA's work for sufficiency. If the review performed by the SSA is insufficient, the NCUA examiner should amend the review. The NCUA examiner must also ensure:

- The CCV Module includes the appropriate regulation for BSA violations;
- The required BSA questionnaires are completed; and
- The CCV Module and BSA questionnaires are included in the NCUA WCC 11 or WCC 23 examination upload.

If a state report lacks adequate agreements for corrective action or the SSA is not adequately resolving the issue(s), examiners will recommend the supervisor (or Regional Director) communicate with the state, take appropriate action, and document the outcome in a memo to DOS. For significant BSA violations outstanding an unreasonable length of time, supervisors should follow up with the respective SSA to assess the status of corrective action. In rare instances, examiners may need to contact the credit union directly to assess resolution status. As a last resort, examiners should discuss with their supervisor as to whether formal correspondence to the SSA is required.

8. Reporting the Resolution of BSA Violations

⁴⁹ The term "examined" refers specifically to WCC 11s. If during another type of contact, an NCUA examiner identifies unresolved BSA concerns or concerns not identified by the SSA, examiners should expand the scope of the review to include BSA and follow up to ensure BSA resolution.

Examiners must supervise the credit union's progress to ensure timely resolution of significant BSA violations. Resolution encompasses the correction of the noted BSA violation(s) and the implementation of adequate controls to mitigate the potential for similar violations. When significant BSA violations have been adequately corrected, examiners must upload an AIREs file with the CCV Module properly completed.

9. BSA Control Reports

Control reports serve as a mechanism to ensure the agency has a robust examination program that is properly resourced and monitored for adherence to national examination and quality standards.

A. Regional BSA Control Reports

Regional Directors are responsible for measuring and monitoring the BSA examination program for quality and completeness, as well as adherence to established standards. The regions are responsible for reviewing and ensuring BSA violations are cited appropriately and correctly. At a minimum, the regions will be responsible for maintaining and reporting the following:

- Monthly report to E&I of all Significant BSA violations with associated resolution dates cited in FICUs;
- Log of all BSA violations outstanding for more than 90 days with status reported to E&I quarterly;
- Monthly report to E&I of all administrative actions taken relating to BSA violations; and
- Quarterly responses to E&I regarding the accuracy of BSA violations cited (when applicable).

(b)(8)



Appendix 9-B
BSA References

FFIEC BSA Anti-Money Laundering Examination Manual

FinCEN

FinCEN Ruling 2005-6 – Suspicious Activity Reporting (Structuring)

NCUA Instruction 5001.06 (Rev. 1) (dated May 10, 2005)

NCUA Instruction No. 12400.05 Processing Complaints Against Credit Unions and Documenting Compliance Violations (dated April 23, 2004)

NCUA web site regarding BSA

Chapter 18 and Appendix 18A of the Examiner's Guide

Interagency Statement on Enforcement

FinCEN MOU

Chapter 10 – Prompt Corrective Action (PCA)

Prompt Corrective Action is designed to restore and improve the net worth of federally-insured credit unions (FICUs). When a credit is subject to PCA, the district examiner will monitor compliance to all applicable provisions of PCA contained in Part 702 of NCUA Rules and Regulations. This chapter establishes national policy and guidelines NCUA staff will follow when completing PCA related work assignments and examination/supervision of PCA related issues.⁵⁰

1. Category Classifications⁵¹

Net Worth Category Classification for Credit Unions NOT Classified as “New” under PCA ⁵²	
Well Capitalized	7% or above
Adequately Capitalized	6% to 6.99%
Undercapitalized	4% to 5.99%
Significantly Undercapitalized	2% to 3.99%
Critically Undercapitalized	< 2%

Net Worth Category Classification for New Credit Unions	
Well Capitalized	7% or above
Adequately Capitalized	6% to 6.99%
Moderately Capitalized	3.5% to 5.99%
Marginally Capitalized	2% to 3.49%
Minimally Capitalized	0% to 1.99%
Uncapitalized	Less than 0%

2. PCA Classification

A. Examiner Responsibilities⁵³

- You will determine the effective date and PCA classification as defined under §702.101(b) and §702.102; and
- Ensure credit unions under your supervision comply with all requirements of Part 702.

⁵⁰ Additional references include the Examiner’s Guide Chapter 17, Prompt Corrective Action and Letter to Credit Unions No. 01-CU-01.

⁵¹ Examiners need to consider if the credit union meets any applicable risk based requirements for PCA classification.

⁵² For PCA purposes, “new” credit unions are in operation for less than 10 years and with total assets of not more than \$10 million.

⁵³ The RO, at its option, may provide documentation to the examiner to determine the effective date of classification and/or if a credit union is newly chartered, but it is incumbent on the examiner to be familiar with their district information.

B. Effective Date of Classification

The effective date of the net worth classification (§702.101(b)) is the most recent of:

- The last day of the calendar month following the end of the calendar quarter. This is determined by the 5300 Call Report filing and the most typical effective date.
- The date the credit union received subsequent written notice from NCUA or, if state-chartered, the appropriate SSA, of:
 - a decline in net worth category due to a correction of an error or misstatement in the credit union's most recent call report;
 - a reclassification to a lower net worth category on safety and soundness grounds.

If you are recommending lowering the credit union's net worth category to less than well capitalized based on an examination or supervision contact, you must complete the following actions:

- Obtain your supervisor's concurrence, note the agreement in the Confidential Section of the AIREs report, and document the corrected net worth category in the Examination Overview.
- If the examination or the supervision contact reduces net worth to a lower category, and you are not issuing a report to the credit union, prepare a draft letter to formally notify credit union officials of the corrected net worth category and the required PCA action(s). This should be rare. Your findings to lower a credit union's net worth category would be significant in most circumstances, making an AIREs report to the officials warranted for the administrative record. (Appendix 10-A and Appendix 10-A1 contain two scenarios templates.) Forward the draft letter through your supervisor to the regional DOS mailbox for processing.

C. Reclassification Based on Correction – FCU versus FISCU

The effective date of an examination or supervision contact-based correction to a net worth category varies depending on whether the credit union is federal or state chartered:

For Federal Credit Unions (FCUs): If the contact involves an AIREs report upload (such as an examination or follow-up examination), the effective date is the date the officials receive the final report. If the contact does not involve an AIREs report upload, the effective date will be the date the credit union receives the notification letter.

For Federally Insured State-Chartered Credit Unions (FISCUs): You must consult and seek to work cooperatively with the appropriate SSA official before correcting a net worth category of a FISCU. NCUA examiners will promptly

notify the appropriate SSA of its decision to correct a net worth category. The date will depend on whether it was an independent or joint examination.

- The effective date of classification for an independent examination completed by the state supervisory authority (SSA) is when the SSA releases its official examination report.
- The effective date of classification for a joint examination, where the NCUA EIC is aware the SSA will be providing a timely examination report to the FICU, is when the SSA releases its official examination report.
- If it is a joint examination where the SSA may not release its examination report for several months or in the event of an independent insurance review completed by NCUA, you will follow the same procedure used for FCUs (through a notification letter) but give the SSA an opportunity to review the draft notification letter before it is issued and copy the SSA on the final letter.

3. Earnings and Reserve Transfer Requirements for “Adequately Capitalized” or Lower FICUs

Subpart B of Part 702 contains regulatory guidance regarding the earnings retention requirements for adequately capitalized or lower credit unions. Earnings retention waiver filing procedures are discussed in Chapter 6 of this Manual.

A. Examiner Responsibilities

- Review the accuracy and adequacy of the quarterly net worth increases and reserve transfers since the last supervision contact during examinations and follow-up examinations.
- Determine if it is probable that an FICU will need to request an earnings retention waiver for the current or foreseeable quarters during the course of any examination, follow-up examination, or other supervision activity. If a credit union is likely to need to request an earnings retention waiver, you must address this issue in the examination report. Your supervision plans must incorporate adequate follow-up to ensure earnings retention waiver requests are filed timely.
- If you determine a FICU failed to meet the earnings retention requirements for one or more of the previous quarters during the course of an examination, follow-up examination, or other supervision activity, and did not apply for or did not receive an earnings retention waiver, **you must document the violation in the examination report.** NCUA can take supervisory or other enforcement action against credit unions that either decrease their earnings retention without permission or persistently fail to file their waiver requests timely. You should instruct management to establish procedures to reduce dividends to achieve the required earnings retention requirements or obtain an earnings waiver from NCUA before paying dividends.

- If you identify a FCU that failed to meet its earnings retention requirements and did not seek a waiver (§702.201) through supervision activity outside of an examination or follow-up examination, you will prepare a brief memo outlining your findings and forward it to your supervisor. The memo will include a draft letter for the RD's signature notifying the officials of the credit union's violation. The supervisor will e-mail the memo and draft letter to DOS Mail for processing.
- In the case of a joint FISCO examination, you will consult with your SE, and work with the SSA to ensure the examination addresses the credit union's failure to meet its earnings retention requirements without a waiver. If the problem is recognized through other supervision activity, you will follow the procedures outlined above and work with the SE to contact the SSA alerting them of the regulatory violation before the notification letter is sent to the FISCO. The SSA will also be copied on the notification letter.

B. Regional Office Review

DOS will determine the proper level of controls for monitoring earnings retention waivers. Monitoring may occur through reviewing risk reports or the regions may have procedures in place to identify credit unions not meeting the regulation or their approved NWRP (if a NWRP was approved with earnings retention less than regulatory guidelines).

4. Net Worth Restoration Plans (NWRP) and Revised Business Plans (RBP)

District examiners are responsible for monitoring compliance with the proper filing and maintenance of a NWRP under §702.206 and Revised Business Plans under §702.306. Regional Directors have delegated authority in the management of the NWRP and RBP approval process.

Credit unions with a net worth ratio less than six percent are required to have in place an NCUA-approved NWRP or, in the case of new credit unions, an initial business plan or a RBP. Credit unions classified as complex per §702.103 also need to meet a risk based net worth (RBNW) requirement and if their RBNW requirement exceeds their net worth ratio they are classified as undercapitalized.

A NWRP/RBP questionnaire is available in AIRES. Appendix 10-B provides a sample NWRP/RBP.

A. Processing NWRPs\RBPs - Division of Supervision Responsibilities

Due to the time sensitivity of NWRP/RBP packages, DOS should perform a cursory review of the incoming package for completeness, making sure all the required information as outlined in §702.206(c) or §702.306(b) is included. DOS will draft a letter returning substantially incomplete NWRP/RBP and request the

missing information. DOS will forward substantially complete packages to the examiner and supervisor.

Once DOS receives notification from the field the package is considered complete, DOS will prepare a letter to the credit union acknowledging receipt of a completed package. The letter will provide a date by which the Regional Director will respond consistent with §702.206 or §702.306. DOS will prepare a work assignment and send the NWRP/RBP to the examiner and the supervisor with a required response date at least 10 business days before the Regional Director's response deadline.

B. Processing NWRPs\RBP - Examiner Responsibilities

Upon receipt of a substantially complete package, the examiner will contact the credit union to obtain any missing documentation. The examiner will notify the supervisor and DOS once the package is considered complete.

You and your supervisor must analyze the NWRP/RBP and provide a written recommendation in a Regional Summary (Appendix 10-C). You can also reference the optional PCA Checklist (Appendix 10-D) to ensure all components of the plan are present and satisfy regulatory requirements.

You must also submit a draft letter to DOS Mail (Appendix 10-E and Appendix 10-E), through your supervisor, outlining the approval or denial of the NWRP/RBP. If you recommend denying the plan, the letter must list the specific deficiencies in the plan that warrants denial. The Regional Office should ensure the delivery method of the letter to the credit union includes a signature. As noted in Chapter 8, when preparing a Regional Summary where an EDS assisted with the NWRP, examiners will note the EDS assistance in the Regional Summary.

C. FISCO NWRP/RBP Processing


FISCOs will submit their plan to the Regional Director and SSA. The same processing procedures listed above for federal credit unions will apply along with these additional steps:

- Supervisors will coordinate all related issues directly with the SSA;
- Supervisors will, unless submitted directly to the Regional Office, obtain documentation of the SSA's approval or denial; and
- DOS will courtesy copy the appropriate SSA on all signed correspondence between the RD, DOS, and a FISCO including any Regional Director approval or denial letters.

D. Failure to Submit an NWRP/RBP

DOS will monitor credit unions who fail to submit a NWRP/RBP and contact the supervisor for a status report when the NWRP/RBP is not received by the due date.

Examiners will draft an RDL (Appendix 10-O), through their supervisor, when any credit union fails to timely file the NWRP. The RDL will give the credit union 15 calendar days from the receipt of the notice to submit the NWRP in accordance with §702.206(a)(4). The supervisor will submit the RDL to DOS Mail within three business days of receipt. FISCUs may require SSA consultation.

	<p>Sometimes credit unions may be in the process of or choose to seek a merger. The RD can agree to accept a merger plan in lieu of a NWRP/RBP. However, the RD's approval should be subject to the credit union filing an acceptable merger plan or NWRP by a reasonable but specific deadline. If the merging credit union is critically undercapitalized or uncapitalized the deadline should be set to ensure compliance with §702.204 or §702.305.</p>
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E. Monitoring NWRPs and RBPs after Approval

Examiners will monitor each credit union operating with a net worth ratio less than 6% and provide their supervisor with a quarterly update report (Appendix 10-G). Examiners will perform onsite supervision contacts of these credit unions to assess compliance with PCA and overall net worth stability.

Examiners and their supervisor are responsible for monitoring the level of compliance with the NWRP/RBP. Examiners should document their compliance review in the Supplementary Facts of each examination or follow-up examination report.

If the review determines the credit union has materially fallen short of the earnings and net worth ratio goals of the plan, examiners will:

- Instruct the credit union to make adjustments to financial and operational strategies to come into compliance with the NWRP/RBP;
- Advise, when appropriate, the credit union to develop and submit a revised NWRP/RBP; or
- Pursue additional supervisory remedies, such as administrative action.

If the review determines the existing, approved plan is no longer adequate, examiners will send an e-mail (through their supervisor) to their region's DOS mailbox along with a draft RDL (Appendix 10-N) advising the credit union of the need for revisions and instructing it to submit a revised plan.

Documentation will include a comparison of the credit union's actual performance with its current NWRP/RBP. Appendix 10-G outlines a credit union's action plan and quarterly NWRP/RBP targets for net worth ratio, earnings transfer, assets, etc. and can be used to document and track the plan's performance.

Any findings or concerns relating to the NWRP should also be cited in the examination report as appropriate.

F. Discontinuance of an NWRP/RBP

An NWRP in the case of a non-new credit union, or an RBP in the case of a new credit union, will expire at the end of the term of quarters prescribed in the plan for the credit union to become and remain classified "adequately capitalized" (§702.206(c)(1)(i); §702.306(b)(2)). In the case of a non-new credit union, however, NCUA expects it to remain "adequately capitalized" or better for at least four quarters following expiration of its NWRP (§702.206(c)(1)(i)). Upon expiration, the examiner will review the credit union's financial and operational condition, confirm the accuracy of the net worth classification, and draft a memo to his or her supervisor confirming the expiration of the credit union's NWRP or RBP.

- Your memo will include a draft letter advising the credit union of the NWRP expiration (Appendix 10-H) and the need to continue retaining earnings as required by Part 702.
- Your memo will include supervision plans, if necessary, for monitoring PCA compliance (earnings retention) until the credit union becomes "well capitalized."
- In the case of FISCUs, the supervisor will contact the SSA and request their response on the expiration of the NWRP. The SSA will also be copied on the expiration letter when it is issued.
- The supervisor will review the recommendation and the draft letter and forward to DOS for processing.
- The regional office will issue the letter to credit unions formally acknowledging expiration of the NWRP/RBP.

5. Invoking Discretionary Supervisory Actions (DSAs) and Other Corrective Actions (OCAs) for Critically Undercapitalized Credit Unions

A. Discretionary Supervisory Actions

NCUA Instruction No. 3501.01, Discretionary Supervisory Actions (DSAs) under Prompt Corrective Action (PCA) addresses national policy for processing Discretionary Supervisory Actions.

For DSAs, examiners will submit through their supervisor:

- A Regional Summary (Appendix 10-J); and
- The credit union's most recent balance sheet and income statement.

DOS will review and process the action for RD approval (and NCUA Board approval if necessary).

B. Other Corrective Actions for Critically Undercapitalized Credit Unions

For critically undercapitalized credit unions, NCUA may approve Other Corrective Action (OCA) in lieu of conservatorship or liquidation (§702.204(c)): The Regional Director has delegated authority to approve OCA for credit unions with assets less than \$5 million. The NCUA Board approval as well as concurrence from the Office of Examination and Insurance is required for credit unions greater than \$5 million in assets.

i. Processing

The Enforcement Manual addresses the required contents of OCA packages.

ii. Timing of Submission

Timing of these submissions is critical, especially when NCUA Board approval is required. NCUA has 90 days from the effective date the credit union became critically undercapitalized to approve OCA. The region is responsible for submitting the BAM and obtaining concurrence from E&I and OGC within completion due dates for Board actions.

iii. FISCUs

Joint actions with the SSA are preferred for FISCUs. However, examiners can recommend actions without SSA concurrence, if necessary. You should note the concurrence or non-concurrence of the SSA in the Regional Summary.

6. Guidelines for Submission of an Application for a PCA Risk Mitigation Credit

NCUA publication 8507 – Guidelines for Submission of an Application for a PCA Risk Mitigation Credit (Appendix 10-L) provides detailed information on applications for a PCA Risk Mitigation Credit provided in §702.108.

NCUA publication 8508 - Guidelines for Evaluation of an Application for a PCA Risk Mitigation Credit (Appendix 10-M) provides detailed information for NCUA staff on how to evaluate credit union applications for a PCA Risk Mitigation Credit provided under §702.108 of the NCUA Rules and Regulations.

Due to the complex analysis necessary for a Risk Mitigation Credit, regions will need to seek the assistance of the appropriate level of expertise within NCUA. This includes E&I with experience in processing prior risk mitigation credits, specific program officers, and senior capital market specialists.

Processing Responsibilities

- DOS will review a request for a Risk Mitigation Credit for complete information. If the information submitted is incomplete or inadequate, DOS will request additional information. The RD has 45 days from the receipt of a complete application to respond to the credit union's request for a Risk Mitigation Credit. DOS will coordinate participation of NCUA staff experts with the region. DOS will forward complete requests to the examiner, through their supervisor, for review, concurrence and a recommendation for approval or denial. Examiners will document sufficient analysis to support the recommended action.
- Examiners will prepare a memo summarizing the application and make a recommendation for approval or denial. The supervisor will review the package and forward it to DOS indicating their concurrence or non-concurrence with the examiner's recommendation. DOS will then review and process the action for RD approval after determining the examiner has provided sufficient support and documentation for the administrative record.

7. Monitoring and Controls

A. Regional Level Reporting

- Regions will monitor credit union compliance with PCA and maintain records of all PCA actions.
- Each region will submit a PCA status report to E&I each quarter by the 25th of the 2nd month following quarter end.⁵⁴
- The Regional Offices are responsible for maintaining the administrative record supporting actions taken.

B. E&I Level Reporting

- E&I will review regional activity on a quarterly basis as a means of tracking regional and national trends for consistency and policy formation purposes. E&I will issue a national summary of the quarterly regional reports analyzing national trends.
- E&I will periodically request a sampling of actions taken under this chapter for quality control purposes as part of an ongoing quality assurance process.

⁵⁴ Until a centralized database/tool is developed, regions will continue to use reporting systems currently in place.

Appendix 10-L

NCUA 8507 Guidelines for Submission of an Application for PCA Risk Mitigation Credit

http://www.ncua.gov/GenInfo/GuidesManuals/pca_guidelines/NCUA8507.pdf



NCUA8507.pdf

Appendix 10-M

Guidelines for Evaluation of Application for PCA Risk Mitigation Credit

http://www.ncua.gov/GenInfo/GuidesManuals/pca_guidelines/NCUA8508.pdf



NCUA8508.pdf

Chapter 11 – Administrative Remedies

Administrative remedies⁵⁵ are available to prevent or eliminate serious operational and financial problems in credit unions. Administrative remedies provide protection to credit unions, credit union members, creditors, the NCUSIF, and the credit union industry. Administrative remedies are tools available to NCUA to affect problem resolution.

This chapter provides an overview of administrative actions and establishes expectations, procedures, and controls for developing and processing specific informal and formal actions.⁵⁶ The guidance in this chapter is intended to improve efficiency and consistency in preparing administrative actions. Correspondence templates are included in the appendix of this chapter for guidance purposes. The templates are a guide and must always be modified in order to assure they are suitable for the particular facts and circumstances of a given case. The details of the particular problems as well as the expected timeframes and specific corrective action should be clearly spelled out in the body of the agreement. The Office of General Counsel is available to assist in preparing, reviewing, and negotiating any formal administrative action should such assistance be desired and requested by the Regional Office.

Formal administrative action processes and guidance are referenced in NCUA Instruction 4820 - Enforcement Manual and chapters 29 and 30 of the Examiner's Guide.

1. General Responsibilities Regarding Administrative Remedies

A. Examiner Responsibilities

Examiners will detect and formulate action plans to resolve credit union problems before they become insurmountable. Examiners will address issues during examinations and supervision contacts and recommend elevated actions when appropriate. Certain administrative actions are expected on all CAMEL 4 and 5s (see Supervisory Letter No. 10-4). Refer to Chapter 1 for further administrative action requirement details. Additionally, examiners will:

- Adhere to administrative action processes in this chapter and draft necessary documents. Examiners will work with their supervisor to provide analysis and documentation that supports any recommended action. Correspondence to credit unions will be accurate, easily understood, and results oriented with clearly established expectations and goals.

⁵⁵ "Administrative remedies" refers to a broad range of actions that, while including formal actions such as published Letters of Understanding and Agreement and cease and desist orders, also includes informal actions such as Documents of Resolution, Regional Director Letters, unpublished Letters of Understanding and Agreement, and Preliminary Warning Letters. "Enforcement action" typically refers to a formal action that includes an administrative hearing.

⁵⁶ Supervisory Letter 10-04, Administrative Remedies, NCUA Instruction No. 4820 - Enforcement Manual, NCUA Instruction No. 4810, Special Assistance Manual, and Chapters 29 and 30 in the Examiner's Guide provide additional information on administrative remedies.

- Examiners will monitor credit union compliance with agreed-upon corrective action and timeframes and will recommend necessary alternative actions based upon the level of resolution.

B. Supervisor Responsibilities

Supervisors will confirm examiners adequately recognize and address risk(s) and use the appropriate level of administrative action. Additionally, Supervisors will:

- Follow the administrative action processes in this chapter, while ensuring proper analysis and documentation supports all administrative actions.
- Monitor examiner's supervision plans and activities for compliance with appropriate resolution and national requirements.
- Confirm compliance with agreed-upon corrective action and timeframes and ensure any necessary alternative actions based upon the level of resolution.
- Ensure documents drafted by examiners are professional and results oriented.

C. Regional Directors Responsibilities

Regional Directors will ensure any recommended administrative action is warranted and supported. Additionally, Regional Directors will:

- Confirm proper monitoring of administrative actions and sufficient progress of problem resolution.
- Provide a process to track administrative actions and provide Control Reports as discussed in Section 9 of this chapter.

D. E&I and the Office of General Counsel Responsibilities

E&I and the Office of General Counsel (OGC) will review administrative actions for concurrence when required under delegated authority. E&I and OGC will provide advice and guidance on the use and issuance of administrative actions. Additionally, E&I will:

- Routinely request reports from the regions and may periodically request a sampling of issued administrative actions for quality control purposes as part of an ongoing quality assurance process.
- Review regional activity as a means of tracking regional and national trends for resource, consistency, and policy formation purposes and will issue a semi-annual national summary of administrative actions.

2. Types of Administrative Remedies

Administrative remedies fall into two different categories: informal actions and formal actions (enforcement actions). Formal actions are taken when an event triggers a level of concern requiring immediate attention and/or less formal actions have not resolved the core concerns to NCUA's satisfaction.

A. Informal Actions

The Regional Director must approve all informal actions with the exception of a Document of Resolution. Informal actions include the following:

- Document of Resolution (DOR);
- Regional Director Letter (RDL);
- Letter of Understanding and Agreement (LUA) (non-published);
- Preliminary Warning Letter (PWL); and
- Regulator leverage.⁵⁷

B. Formal Actions

Unlike most informal actions, formal actions are authorized by statute (mandated in some cases), are generally more severe, and may be disclosed to the public. OGC must be consulted on all formal actions and they must be approved as outlined in the Delegations of Authority. When considering a formal action, OGC will be consulted as early in the process as possible. Formal actions include:

- Published Letter of Understanding and Agreement (LUA);
- Immediate and/or Permanent Cease and Desist Order;
- Civil Money Penalties;
- Involuntary Liquidation;
- Conservatorship;
- Removal and/or Prohibition;

⁵⁷ This is an action to withhold or allow conditional approval as part of the approval process because of a regulatory compliance or safety and soundness issue. This tool is available when the credit union is seeking fixed asset waivers, member business loan waivers, field of membership expansions, etc. Rescinding previously approved waivers due to safety and soundness issues is considered "regulator leverage." See Supervisory Letter 10-04.

- Termination of Insurance and/or Revocation of Charter; and
- Some Prompt Corrective Action related actions, such as ordering a new election or dismissing a director or senior officer (refer to Chapter 10 PCA).

3. Document of Resolution (DOR)

The AIRES DOR module enhances the administrative record as it improves the tracking and reporting of unresolved DOR items. Reports generated from this data summarize and track problem areas to highlight the resolution of outstanding problems. The AIRES 2005 Manual addresses the proper use of the DOR module. Examiners will make full use of the DOR module.

NCUA requires (by the lease agreements) State Supervisory Authorities (SSAs) who use NCUA issued laptops to use the AIRES program, and specifically the DOR module. During the course of WCC 26 reviews, NCUA examiners will ensure any problem codes (and associated corrective action) needed beyond those input by the SSA are added.

A. Examiner Responsibilities

In order to ensure a full administrative record of problem areas, examiners will:

- Create DOR items and assign problem codes by using the DOR module in AIRES;
- Ensure all prior examination DOR items are properly noted as resolved, unresolved, or no longer applicable, and appropriately documented within the DOR module;
- Ensure repeat problem areas are properly noted with accurate comments and accurate dates of identification. When the original identification date is used for repeat DOR items, examiners will ensure the issue identified is exactly the same as the previously identified concern (not necessarily the wording – but the issue or problem);
- Ensure DOR comments are consistent between the DOR module and the DOR;
- Require a written response to the DOR for credit unions rated a CAMEL 3, 4, or 5. Credit unions will have 30 calendar days to submit their response via secure email to the examiner or hard copy to the Regional Office. The Regional Office will forward the hard copy response to the examiner. The examiner will follow up with the credit union to ensure its response is timely and appropriate; and

- Require credit union management to submit their action plan if they do not adopt the DOR. If communication and negotiation efforts are unsuccessful and the DOR is not adopted, examiners will require management to provide an alternative resolution plan and note it in the Confidential Section. If management's action plan is insufficient to address the problem(s) and sufficient resolution is not obtained, elevated administrative actions will be used.

B. Review of Outstanding DOR Items

Recurring or unresolved problems are continually identified as leading to credit union failures and losses to the NCUSIF. Examiners must ensure that items significant enough to be included in a DOR are resolved in a timely manner. The following conditions apply to all credit unions with recurring or unresolved DOR items, regardless of CAMEL Code:

- Failure by the credit union to address previous DOR items is grounds to proceed with more stringent administrative action, such as a Regional Director Letter (RDL), Letter of Understanding and Agreement (LUA), Preliminary Warning Letter (PWL) or Cease and Desist Order (C&D). If the examiner and supervisor do not proceed with elevated administrative action, examiners will document the rationale in the Confidential Section. Examiners will include the nature of the problem, agreements to correct the problem, their supervision plans, and the reason the examiner and supervisor did not proceed with elevated administrative action.
- When credit unions have recurring or unresolved DOR items, examiners must consider the quality of management and weigh management's failure to resolve problems heavily in the management CAMEL component and overall composite rating.
- If a credit union fails to take corrective action within the timeframe stated in the DOR, the credit union will be required to submit a written response to the examiner. This applies to all credit unions regardless of CAMEL code.
- Examiners will document credit union officials' failure to adequately implement DORs by placing an asterisk beside the repeat corrective action plan and footnote the DOR with the following statement:

"This is a repeat item. Similar plans of action were agreed to during one or more previous examinations/supervision contacts without adequate corrective action taken by management."
- Examiners will document in the Confidential Section how management failed to take corrective action agreed to at the last examination/supervision

contact (this is in addition to wherever the examiner deems appropriate or necessary in the other sections of the exam report).

- In CAMEL 2 credit unions with ongoing unresolved issues/non-compliance with DORs, examiners will first consider whether this credit union warrants a CAMEL 2 rating. If it does, examiners may want to require management to submit a written response to all DOR items.

C. DORs Not Adopted

Examiners will work with credit union management to develop agreeable action plans. However, if officials do not adopt the DOR or a specific corrective action plan at the exit meeting or joint conference, examiners will document the officials' disagreement or inaction using the following footnote as described in Section 20-4 of the Examiner's Guide:

"These plans for action, although not approved by the credit union officials, are recommended to correct the area of concern. The officials have agreed to review the plans and to notify the Regional Director, National Credit Union Administration, (enter appropriate address), by (enter date), of the actions to be taken."

D. Reporting Problem Codes

Examiners will only identify material problems for problem code tracking purposes. For example, a single loan exception would not necessitate a comment as a problem area, but the absence of a sound loan policy would. Examiners will complete the problem code area in the AIRES DOR module including the date the problem was first identified. The problem code and associated date will be specific to the problem and not just the problem area. When completing the problem code areas in the AIRES DOR module, examiners will list the effective date the problem was originally identified. If the credit union corrected the original problem, but the examiner discovered a new problem of the same type during the subsequent contact, the date will reflect the effective date the original problem was identified.

The "Historical Contacts" section of AIRES will assist in finding source dates for problem areas.

Example #1: Loans were out-of-balance as of March 31, 2011 and assigned a recordkeeping problem code. As of September 30, 2011, the loans balanced, but now the examiner determined bank reconciliations are in arrears and also assigned a recordkeeping problem code. Examiners would date the new problem area as September 30, 2011 (09/11).

Example #2: Corporate statements were found to be out of balance as of March 31, 2011 and assigned a recordkeeping problem code. As of September 30, 2011, the corporate statement balanced, however the credit union's local correspondent bank account reconciliements did not balance. Examiners would date the new problem area as March 31, 2011 (03/11) to identify an ongoing bank reconciliation problem.

4. Regional Director Letter (RDL)

An RDL is a tool to use when a credit union has serious and/or persistent problem areas not being resolved through field supervision alone. Examiners will ensure they fully address the issues through the examination process first, but a letter from the RD is an option to further emphasize the areas of concern. Appendix 11-A is a sample letter.

A. Examiner Responsibilities

- Discuss the recommendation for an RDL with the supervisor.
- Document the need for the RDL in the Confidential Section.
- Address the primary areas of concern, corrective actions, expectations, and required response(s).
- Be direct, concise, and clear with the draft letter. As a general guideline, RDLs will not exceed two pages in length.
- Write from the perspective of the RD and with the appropriate official audience in mind.
- Direct the credit union's board of directors to respond in writing to the RD with a copy to the examiner. Examiners are responsible for all follow up to ensure the credit union's response is timely and appropriate.
- Indicate the recommendation of an RDL in the Examiner's Comments section on the Completion Information tab of the Examination Management Console (EMC) in AIREs.
- E-mail the draft RDL to the supervisor for review and approval within three business days of the contact completion date. The supervisor will review the report to ensure the RDL is appropriate and fully supported. The supervisor will then forward it to their region's DOS mailbox within seven business days from the contact completion date.
- If the examiner does not include the required notification for downgrades/upgrades to a CAMEL 3, 4, or 5 in an exam report (as discussed in Chapter 1), the examiner will process an RDL through the supervisor (and then follow normal processing through the Regional Office)

to provide the credit union with the notification. This would only occur under a rare circumstance with justification documented in the Confidential Section (Appendix 11-B, Appendix 11-C (would be used on an exception basis), and Appendix 11-D).

B. Division of Supervision Review

- Division of Supervision will review all draft RDLs and prepare them for Regional Director signature.
- DOS may make minor modifications to these letters, but if it becomes necessary to make major changes to the content (e.g., deleting whole paragraphs, adding new or relevant information, changing the original intended message), DOS will contact the supervisor for concurrence with the changes or will return the draft directly to the supervisor for revision.
- DOS will mail (via expedited mail delivery service) the RDLs to the board chairperson using the credit union's address or board chairperson's home address (and copy the CEO as appropriate). In special cases, DOS may mail the RDL to each board member's home or the supervisor may determine if delivering the RDL in person is appropriate.
- If the Regional Director or DOS decides not to issue an RDL, DOS will discuss the decision with the field supervisor, who will then discuss it with the examiner.

5. Letter of Understanding and Agreement (LUA)

An LUA is a document listing the credit union's specific material problems and the corrective actions necessary to resolve the problems. The LUA will demonstrate to the officials the problems are a major concern to NCUA and NCUA is formally requesting the officials agree to the listed actions in lieu of taking formal administrative action (assuming it is an unpublished LUA as a published LUA is a formal administrative action). The LUA will identify the areas of concern and the necessary corrective actions. Examiners will ensure LUA directives and timeframes are clear, specific, measurable, and easily understandable. No LUA will have a specific termination date unless the LUA is drafted in conjunction with a newly chartered credit union and not as a result of significant problems.

An examiner's recommendation to issue an LUA typically needs to be based on an examination, follow-up examination, or onsite supervision contact supported by an AIRES upload. Examiners will meet with key staff, officials of the credit union, and the SSA (in the case of joint contacts) during the examination or follow-up examination to develop an LUA.

(b)(7)(E),(b)(8)

F. Procedures for Issuing an LUA

The foundation of an LUA starts with a strong DOR. The Examiner-In-Charge will receive firm commitments to the DOR items at the joint conference. The DOR items will serve as the basis for the LUA. The LUA will address the significant concerns identified in the DOR, but it will not necessarily be an exact duplicate.

- Obtain supervisor concurrence and document in the Confidential Section as required in Chapter 1.
- Discuss the intent and the preliminary content of the LUA during the preliminary meeting with management in advance of signing the LUA. Examiners and their supervisor will alert management the issuance of an LUA is subject to review by the Regional Director.
- Develop the DOR with management.
- Examiners will draft an LUA and email it to their supervisor within three business days of completing the contact. The supervisor will review the LUA and make a recommendation to either issue the LUA or not. The supervisor will notify the appropriate Associate Regional Director of all LUAs to be issued regardless of asset size of the credit union. The Associate Regional Director must concur with issuing the LUA prior to submission to the Regional Office.
- Before the LUA is signed by the officials, the supervisor will forward the draft LUA to the region's DOS mailbox for processing for Regional Director approval within seven business days from the examination/supervision completion date. The examiner and supervisor must allow for a minimum of 14 business days for the Regional Office to process and approve the final LUA.
- DOS will discuss all material changes to the LUA with the field supervisor. DOS will return the final approved version of the LUA to the supervisor by e-mail, or by other means as appropriate, for delivery to the credit union.

- Examiners will send an electronic copy to the officials, via ZixMail, prior to the signing meeting. Examiners will allow officials a minimum of two business days to review the LUA before they sign it. Examiners will print a minimum of two copies⁵⁹ of the final approved LUA and present it to the officials in the manner described below in Section G. If a quorum of directors signs the LUA, it is considered to be accepted by the board.

G. Delivering an LUA

- Examiners and the supervisor will deliver the LUA to the credit union at a meeting of the board of directors. The supervisor will give the Associate Regional Director advanced notice of when the LUA will be delivered and the supervisor will attend all joint conferences where the examiner presents an LUA to officials. For federally-chartered credit unions, examiners will document the supervisor's attendance in the Confidential Section of the examination report. For state-chartered credit unions, examiners will document the supervisor's attendance in the WCC 26 Review or memo summarizing the results of the joint examination.
- Examiners will arrange for delivery of the LUA as soon as possible, but within 14 business days after receipt of the final version.
- Examiners will conduct the meeting and explain the LUA.
- If the officials refuse to sign the LUA, examiners will prepare a report documenting the refusal and recommend a course of action, such as a Preliminary Warning Letter.
- After meeting with officials, examiners will collect all of the signed LUAs to submit to the Regional Office for Regional Director signature.

H. Delivering the Final Signed LUA

- Within three business days following the LUA meeting, examiners, through their supervisor, will send the original signed LUA copies (minimum of two) to DOS for the RD to sign.
- After the RD signs the LUA, and regardless of asset size, DOS will mail one of the original signed LUA copies to the credit union with the RDL cover letter (Appendix 11-F). DOS will maintain the other original signed LUA copy in the Regional Office's charter file and an electronic copy (scanned copy with signature) on the DOS drive. DOS will scan and email electronic copies of the signed LUA to the examiner and their supervisor. In the case

⁵⁹ Examiners will have two copies of the LUA ready for signature. DOS and the credit union will receive the original signed copies. The supervisor and the examiner will receive a scanned electronic copy (from DOS) for their records. In the case of FISCUs, the Regional Office will decide if a third original copy is necessary.

of a jointly issued LUA, DOS will mail a copy of the signed LUA to the SSA (or an original third signed copy if the Regional Office preferred the examiner to obtain a third signed copy).

- In the situation where an LUA is issued and the credit union was downgraded to a CAMEL 4 or 5, an Regional Director Letter acknowledging the LUA and downgrade may be appropriate (Appendix 11-D). The RDL acknowledges the LUA, includes a brief synopsis of the problems, and notes the requirements of NCUA Rules and Regulations §701.14 regarding the selection of officials and senior management for "troubled" credit unions.

I. Supervision Contacts for Credit Unions with LUAs

Frequency of examinations, follow-up examinations, and onsite supervision contacts is driven by the credit union's CAMEL ratings and overall risk to the NCUSIF. Outstanding administrative actions will be considered when planning supervision but any outstanding administrative action will be reflected in the CAMEL ratings. If examiners encounter a credit union with an outstanding administrative action (and associated risk) and the risk is not reflected in the CAMEL rating (which is driving the frequency of supervision), they will discuss with their supervisor and plan their supervision accordingly.

Unless there are extenuating circumstances, and approved by the Associate Regional Director, supervision of credit unions with outstanding administrative actions will be in line with what is expected for CAMEL 3, 4, or 5 credit unions (perform a follow-up examination at least every 120 or 180 days (from completion date to completion date)).

During the time in which an LUA is in place, examiners will:

- Prepare and distribute the examination or supervision contacts reports in the same manner as other examinations and supervision contacts.
- Document compliance with the LUA in the Supplementary Facts during each contact. The status of each item will be listed as completed, not completed, or partially completed. Include comments to support completion status.
- Document recommendations for future action such as continue, modify, terminate the LUA, or proceed with elevated or formal administrative action.
- Recommend removal of the LUA when during a follow-up examination or regular examination, the officials have corrected the problems. The examiner will prepare a draft letter for the Regional Director's signature explaining why they recommend removal of the LUA.

- Recommend elevated administrative action if the credit union has not corrected the problem areas within six months. This could be formal actions such as a published LUA, Cease and Desist Order, Civil Money Penalty, Involuntary Liquidation, etc. Refer to the NCUA Instruction 4820 - Enforcement Manual for processing procedures of formal administrative actions.
- Document the existence of an LUA within AIREs (within the "Administrative Tracking" section located on the "Completion Information" tab of the Exam Management Console).

J. Terminating an LUA

When the credit union meets the specific performance standards outlined in the LUA, examiners will recommend to the RD to terminate the LUA. Examiners will not report orally or in writing to the credit union that the LUA is terminated prior to RD approval. Examiners may recommend the termination of an LUA only after an examination or onsite contact supported by adequate work papers showing the credit union has corrected the problems cited in the LUA.

When conditions warrant the termination of an LUA, the examiner will prepare a draft LUA removal letter (Appendix 11-I) to the credit union explaining why the Regional Director is removing the LUA and forward the letter to the supervisor with an explanation in the email supporting their recommendation to terminate the LUA. After review, the supervisor will forward the draft letter to DOS Mail. DOS will review and process the letter to the credit union for Regional Director signature. NCUA will consult with SSA for termination of joint LUAs.

For published LUAs, DOS will also prepare a LUA removal memo (Appendix 11-J) to E&I and OGC to cancel the published LUA and remove it from the public files. The LUA removal letter should include a statement regarding the release of the published LUA as appropriate.

6. Preliminary Warning Letters (PWL)

Examiners will draft a PWL when a credit union's problems are serious and/or persistent and a credit union's board is unwilling to sign an LUA. A PWL will support formal administrative action such as a published LUA or C&D Order.

A PWL is a warning of potential formal administrative action if corrective action is not taken. If formal administrative action is taken, then the PWL is automatically removed and all action items in the PWL will be incorporated into the formal administrative action. There may be rare instances where a PWL and a formal administrative action are necessary to address separate supervisory concerns.

Examiners will only recommend to their supervisor to issue a PWL as a result of a regular examination, follow-up examination, or onsite supervision contact supported by an AIREs

upload. Appendix 11-K (a BSA specific PWL) and Appendix 11-L are two PWL templates.

A. Field Responsibilities

- Obtain supervisor and ARD concurrence for the PWL prior to preparing the letter.
- Examiners will comment on the PWL in the Confidential Section as required in Chapter 1.
- Examiners will e-mail the draft PWL to the supervisor for review and approval within three business days of the examination/supervision completion date. The supervisor will review the report to ensure the PWL is appropriate and supported. The supervisor will then forward it to their region's DOS mailbox within seven business days from the examination/supervision completion date.

B. Content of a PWL

The PWL will be written from the perspective of the RD and include:

- A statement of impending administrative actions by NCUA.
- The following wording where the primary problem area is poor management:

"Your credit union is operating in an unsafe and unsound manner for which substantial, immediate, and corrective action must be taken. It is the board of directors' responsibility, as the body providing general direction and control for the credit union, to take necessary corrective actions."
- A list of the serious area(s) of concern and cite the Federal Credit Union Act or Regulation violated.
- The required actions and timeframes for resolving the area(s) of concern.
- Direct, concise, and clear language.

C. Division of Supervision Review

- DOS will review the PWL for appropriateness and process for RD approval.
- DOS will discuss all material changes with the supervisor.

D. Delivering a PWL

The supervisor will determine whether to hand deliver or mail the PWL (depending on the severity of the issues).

- If the PWL is being hand delivered:
 - The supervisor will notify DOS of the planned meeting date so the PWL is dated accordingly. The date will be approximately two to three weeks from the date field staff submits the draft PWL to DOS.
 - Upon approval, DOS will mail one original copy of the PWL signed by the Regional Director directly to the supervisor for hand delivery and scanned copies for the examiner and supervisor records.
 - The examiner and the supervisor will deliver the PWL onsite to discuss the contents of the PWL, usually at a formal meeting with the credit union's board of directors.
 - Following the meeting, the examiner will distribute the original, signed copy of the PWL to the credit union officials.
 - The examiner and supervisor will maintain scanned copies of the signed PWL.

- If the PWL is mailed:
 - DOS will mail the PWL (via expedited mail delivery service) to the board chairperson using the credit union's address or board chairperson's home address and copy the CEO as appropriate with signature confirmation. In special cases, DOS may mail the PWL to each board member's home.
 - DOS will provide scanned copies to the examiner and supervisor for their records.
 - The examiner and supervisor will maintain scanned copies of the signed PWL.

E. Supervision Contacts for Credit Unions with PWLs

As described in the LUA section, the frequency of examinations, follow-up examinations, and onsite supervision contacts is driven by the credit union's CAMEL ratings and overall risk to the NCUSIF. Outstanding administrative action will be considered when planning supervision but any outstanding administrative action will be reflected in the CAMEL ratings. If an examiner encounters a credit union with an outstanding administrative action (and associated risk) and the risk

is not reflected in the CAMEL rating (which is driving the frequency of supervision), they will discuss with their supervisor and plan their supervision accordingly.

Unless there are extenuating circumstances, and approved by the Associate Regional Director, supervision of credit unions with outstanding administrative actions will be in line with what is expected for CAMEL 3, 4, and 5 credit unions (perform a follow-up examination at least every 120 or 180 days (from completion date to completion date)). Specific requirements include:

- Prepare and distribute the examination or supervision contact reports in the same manner as other examinations and supervision contacts.
- Document compliance with the PWL in the Supplementary Facts during each contact. The status of each item will be listed as completed, not completed, or partially completed. Include comments to support completion status.
- Document recommendations for future action such as continue, modify, terminate the PWL, or proceed with elevated or formal administrative action. *Refrain from recommending the PWL be reissued, rewritten, or allowed to remain outstanding for long periods (usually no longer than 12 months).*
- Recommend removal of the PWL when it is confirmed during a follow-up examination or regular examination the officials have corrected the problem areas. The examiner will prepare a draft letter for the Regional Director's signature explaining why they recommend removal of the PWL.
- Recommend appropriate administrative action if the credit union has not corrected the problem areas within six months, such as a published LUA; Cease and Desist Order, Civil Money Penalty, Involuntary Liquidation, etc. Refer to the NCUA Instruction 4820 - Enforcement Manual for processing procedures for Civil Money Penalties, Involuntary Liquidations, Conservatorships, etc.
- Document the existence of a PWL within AIREs under "Other Administrative Action" (within the "Administrative Tracking" section located on the "Completion Information" tab of the Exam Management Console).

F. Terminating a PWL

When the credit union meets the specific performance standards outlined in the PWL, examiners will recommend termination of a PWL. Examiners will recommend the termination of a PWL only after they complete an examination or onsite contact supported by adequate work papers showing the credit union has corrected the problems cited in the PWL.

When conditions warrant the termination of a PWL, the examiner will prepare a draft PWL removal letter (Appendix 11-M and Appendix 11-N) to the credit union explaining why the RD is removing the PWL and forward the letter to the supervisor with an explanation in the email supporting their recommendation to terminate the PWL. After review, the supervisor will forward the draft letter to DOS Mail for review and processing for RD signature.

7. Initiating Formal Administrative Actions

Before deciding to take formal administrative action, examiners and their supervisor must clearly understand the nature of the credit union's problems and why any previous attempts to resolve the problems failed. Examiners are responsible for ensuring the administrative record presents a complete, factual, and fully documented history of the credit union's problems and the examiner's concerns about the credit union. Examiners will recommend formal administrative action after consulting with their supervisor. Prior to proceeding, the supervisor will discuss the action with the Associate Regional Director, who will receive concurrence from the Regional Director. It is critical that the field and region initiate communication early on in cases where formal administrative action is recommended.

Refer to NCUA Instruction 4820 - Enforcement Manual for the processing of formal administrative actions.

8. Special Assistance Cases

Various types of special assistance are available to help resolve serious credit union problems. Refer to the Examiner's Guide and NCUA Instruction 4810 - Special Assistance Manual for guidance on special assistance available.

9. Control Reports

Control reports serve as a mechanism to ensure the agency has a robust examination program that is properly resourced and monitored for adherence to national examination and quality standards.

A. Regional Control Reports

The region is responsible for maintaining record of all informal and formal administrative actions including, but not limited to, RDLs issued,⁶⁰ LUAs and PWLs. The report will include administrative actions newly issued, currently outstanding (with the exception of RDLs), and those canceled (when applicable) since the last report. The region will periodically evaluate the trends, appropriateness and effectiveness of administrative actions.⁶¹

⁶⁰ The only types of RDLs the region is responsible for reporting are RDLs that are associated with an examination or supervision contact report and part of the administrative record.

⁶¹ Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions will ensure their current systems capture the requested information.

B. E&I Control Reports

E&I will routinely request reports from the regions and may periodically request a sampling of issued administrative actions for quality control purposes as part of an ongoing quality assurance process.

E&I will review regional activity as a means of tracking regional and national trends for resource, consistency, and policy formation purposes and will issue a semi-annual national summary of administrative actions.

Chapter 12 – Work Classification Code Definitions

Examiners use the following work codes on their weekly time reports. For any time codes with "AIRES" noted in the definition section, an AIRES upload must be used to report the time in the examination and supervision system. For any other program time codes, an AIRES upload is optional, as directed by regional management. See Section 3 for categorizing time for work or training associated with a Subject Matter Examiner (SME) designation and Section 4 for work codes that are specific to the Economic Development Specialists (EDS).

1. Work Classification Codes

CLASSIFICATION	WCC	DEFINITION OF USE
Small Credit Union Program – Direct Assistance	02	EDS and examiner one-on-one direct assistance to a small credit union. (AIRES)
Fair Lending Review	03	Fair Lending Reviews of credit unions. (AIRES)
Small Credit Union Program – Other Participation	04	Examiner time used to support the small credit union program (SCUP) which is not directly related to a specific credit union (e.g., workshops, 5300 clinics, and other general outreach efforts).
Lending Specialists	05	Analysis of agricultural and other specialized loan programs. Time spent on specialized lending assignments by Regional Lending Specialists (RLS) not directly related to a specific credit union or credit union examination.
Chartering and FOM Activities	06	Time spent collecting information, analyzing data, and recommending action on chartering and FOM changes, including community conversions and/or expansions, and underserved area expansion requests. Typically, this time is not associated with SCUP program activities.
Regional Capital Market Specialist-Administrative Time	07	Regional Capital Market Specialist (RCMS) time spent on investments and asset-liability management (ALM) issues. This pertains to time spent not directly related to a credit union (e.g., researching investment and ALM topics, preparing and analyzing risk reports, developing training materials and training staff, mentoring examiners, reviewing AIRES ALM work papers and exam reports, conducting Bloomberg analytics, developing agency guidance, reviewing pilot program applications, and answering examiner telephone inquiries.) Also, RCMS time spent on detail to the Office of Examination and Insurance (E&I) will be reflected in this WCC.
Regional Information Systems Officer Time	19	Regional Information Systems Officer (RISO) time spent on IS&T issues. This pertains to time spent not directly related to a credit union (e.g., researching IS&T topics, developing training materials and training staff, mentoring examiners, reviewing pilot program applications, and answering examiner telephone inquiries.)
Management Development Details	09	Time spent completing details for the Management Development Program or any other type of staff developmental program.

Examination FCU – Regular	10	Regular examination of a federally chartered credit union. Includes any SME activity directly related to an examination. SME time should be designated as such using the instructions in Section 5. Additionally, RCMS time, RLS time, and RISO time on the examination is included here. (AIRES)
Examination FISCU – Regular	11	Regular joint examination or insurance review of any state chartered credit union (FISCU). (AIRES)
Examination Corporate FCU	12	Regular examination of a federally chartered corporate. (AIRES)
Examination Corporate SCU	13	Regular examination of a federally insured state chartered corporate. (AIRES)
Examination NFICU	15	Examination of a non-federally insured state chartered natural person (typically conversion examinations) or corporate credit union. (AIRES)
5300 Program FCU	20	Processing of 5300 reports and Financial Performance Report (FPR) trending analysis for FCUs.
5300 Program SCU	21	Processing of 5300 reports and FPR trending analysis for SCUs.
Supervision On-site – FCU	22	On-site supervision of FCUs including any SME activity directly related to supervision of a FCU. Also includes RCMS time, RLS time, and RISO time for on-site supervision. (AIRES)
Supervision On-site – FISCU	23	On-site supervision of SCUs. (AIRES)
Supervision Corporate FCU	24	Supervision of Corporate FCUs. (AIRES)
Supervision Corporate SCU	25	Supervision of Corporate SCUs. (AIRES)
Review of State Examinations	26	Evaluation of examination reports completed by state supervisory authorities. (AIRES)
Supervision Off-site – FCU	27	Off-site supervision of FCUs. (AIRES for contacts eight hours or more)
Supervision Off-site – FISCU	28	Off-site supervision of SCUs. (AIRES for contacts eight hours or more)
CUSO Review	29	Reviews or examinations of credit union service organizations.

2. Administrative Time Codes

CLASSIFICATION	WCC	DEFINITION OF USE
Office	30	Miscellaneous examiner office time not directly related to a credit union. Typically, responding to surveys, requests for comments, independently reviewing and developing Individual Development Plans, e-mail, voice mail, hard copy mail, travel vouchers, time reports, purchasing supplies, filing and organizing, post office, etc.
Computer Administration	31	Examiner time spent maintaining computer hardware and software not directly related to any other work code. This includes time related to restoring lost data, repairing hardware, time with the Office of the Chief Information Officer (OCIO) Customer Service Help Desk, etc.
OJT SME Trainee	34	Time spent receiving specialized SME training during credit

		union contacts.
SE/DSA Details	35	Examiner time spent as Acting Supervisory Examiner (SE) or Director of Special Actions (DSA).
PC Program (AIRES) Development and Testing, and OCIO Technical Support Desk	36	Examiner time associated with developing, testing, or training on AIRES or other software applications related to the Personal Computers (PC). Also all details to OCIO, including the OCIO Technical Support Desk are charged here.
Meetings/Conferences – External and Internal	37	Meetings or conferences external to NCUA such as chapter meetings, meetings with other agencies, and topic presentations outside of NCUA. Also, meetings or conferences internal to NCUA such as SE group meetings or time spent with supervisors to review performance or Individual Development Plans.
Training – Classroom	39	Training courses normally in the classroom setting for senior examiners and new examiners. This time code should also be used for online training and webinars.
OJT SME Trainer	40	SME time spent providing specialized training during credit union contacts.
Training OJT and Trainee	41	Non-productive training time for new examiners and their trainers.
Online Meetings, Conferences, and Webinars	42	Online meetings, conferences, and webinars such as webinars providing training on new agency guidance, the Chairman's quarterly webinars with staff, etc.
Detail to Central Office	43	Detail assignments to the central office. Includes national committee and/or working group assignments, Equal Employment Opportunity (EEO) counselors, accounting manual and examiner's guide revisions, IS&T field (vendor reviews) and office details, consumer compliance details, etc. (Does not include the following: OCIO – see code 36; E&I RCMS details – see code 7; or Office of Small Credit Union Initiatives (OSCU) EDS details – see code 18).
Detail to Regional Office	44	Detail assignments to the regional office, including regional committee assignments, regional office training, etc.
Travel – FCU	45	Travel associated with a FCU.
Travel – SCU	46	Travel associated with a SCU.
Travel - Training/Meetings/Conf.	47	Travel associated with training, meetings, conferences, or details.
Holiday	66	Official government holiday.
Annual Leave	67	Annual Leave.
Sick Leave	68	Sick Leave.
Other Leave	69	Other Leave.
Union Official Term Negotiations	70	A bargaining unit employee union representative use of approved official time, including applicable travel time, to participate in term and/or reopener negotiations covered in Article 41 of the Collective Bargaining Agreement (CBA) and related bargaining preparation. Hours are separate from the time bank in Article 6.
Union Official Mid-Term Negotiations	71	A bargaining unit employee union representative use of approved official time, including applicable travel time, to participate in negotiations covered by Article 8 of the CBA.

		Hours are separate from the time bank in Article 6.
Union Official Dispute Resolution	72	A bargaining unit employee union representative use of approved official time, including applicable travel time, to represent employees in activities covered by Articles 28, 29, 30, and 31 as well as to participate in FLRA proceedings. Hours are subject to the time bank and individual limits in Article 6.
Union Official General Labor/Management Relations	73	A bargaining unit employee union representative use of approved official time, including any applicable travel time, for activities related to labor relations such as formal meetings, meetings with BU employees, mid-term bargaining preparation, preparing and maintaining records required by federal agencies. Hours are subject to the time bank and individual time limits in Article 6 of the CBA.
Union Official Partnership Activities	74	A bargaining unit employee union representative use of approved official time, including applicable travel, to participate in approved NCUA/NTEU partnership activities. Hours are separate from the time bank in Article 6 of the CBA.
Union Official B1 Negotiations	75	A bargaining unit employee union representative use of approved official time, including applicable travel time, to participate in bargaining topics covered by the NCUA/NTEU B1 bargaining agreement. Hours are separate from the time bank in Article 6 of the CBA.
Bargaining Unit Employee Official Time (Replaces Prior Code 91)	76	A bargaining unit employee use of approved duty time, including any applicable travel time, to meet with union representatives concerning grievances or other representational matters.
Bargaining Unit Employee Partnership Activities	77	A bargaining unit employee use of approved official time, including applicable travel time, to participate in approved NCUA/NTEU partnership and to participate in bargaining topics covered by the NCUA/NTEU B1 bargaining agreement.
Credit Hours Earned	80	Credit hours earned.
Credit Hours Used	81	Credit hours used.
Compensatory Time Earned	84	Compensatory time earned.
Compensatory Time Used	85	Compensatory time used.
Travel Compensatory Time Earned	88	Travel compensatory time earned.
Travel Compensatory Time Used	89	Travel compensatory time used.
Paid Overtime	98	Paid overtime.

3. Subject Matter Examiner (SME) Time Codes

SME time spent working or training in a particular specialty area will be recorded in TMS.NET using the SME Type column and the SME Hour column. These columns should be used for training, examination or supervision work, or any administrative time associated with an SME area. The only exception is Small Credit Union SMEs will record

productive time using WCC 2 and WCC 4. The additional SME information is not necessary for these two codes.

CLASSIFICATION	SME TYPE	SME CODE	DEFINITION OF USE
Capital Markets SME	CMS	1	Productive and administrative time related to Capital Markets SME work.
Information Systems & Technology SME	IST	2	Productive and administrative time related to Information Systems & Technology SME work.
Payment Systems SME	EPS	3	Productive and administrative time related to Payment Systems SME work.
Recordkeeping/Internal Controls SME	RIC	4	Productive and administrative time related to Recordkeeping/Internal Controls SME work.
Specialized Lending SME	SL	5	Productive and administrative time related to Specialized Lending SME work.
Consumer Compliance SME	CC	6	Productive and administrative time related to Consumer Compliance SME work.
Small Credit Union SME	SCU	7	Time related to Small Credit Union SME work that is reported in WCC codes other than WCC 2 or WCC 4.

4. Economic Development Specialists (EDS) Codes

The following work codes are for the EDS to record productive time not directly related to a specific credit union. EDSs should record one-on-one credit union direct assistance as WCC 2.

CLASSIFICATION	WCC	DEFINITION OF USE
EDS Meetings with Credit Union Organizers	01	EDS time spent meeting with organizers of potential new federal credit unions.
EDS National Workshops	14	EDS time spent participating in and preparing for OSCUI national workshops.
EDS Partnerships/Networking	16	EDS time spent with community organizations, trade associations, and other government and non-government associations and institutions fostering credit union development. This code also captures time spent developing partnerships among credit unions to assist in the long-term viability of small and low-income designated credit unions.

Explanations of Commonly Used Acronyms and Initialisms			
AIRES	Automated Integrated Regulatory Examination System	MBL	Member Business Loan
ALCO	Asset/Liability Committee	MLR	Material Loss Review
ALM	Asset Liability Management	NCUAB	NCUA Board
ALS	Agricultural Lending Specialist	NCUSIF	NCUSIF
ARDO	Associate Regional Director (of either Operations or Programs as appropriate)	NFICU	Non Federally Insured Credit Union
BAM	Board Action Memorandum	NSPM	National Supervision Policy Manual
CCV	Consumer Compliance Violations Module (in AIRES)	NWR	Net Worth Ratio
CO	Central Office	NWRP	Net Worth Restoration Plan
CU	Credit Union	OCIO	Office of the Chief Information Officer
C&D	Cease and Desist	OIG	Office of the Inspector General
DE	District Examiner	OSCU	Office of Small Credit Union Initiatives
DOI	Division of Insurance	PCA	Prompt Corrective Action
DOR	Document of Resolution	PCO	Problem Case Officer
DOS	Division of Supervision	PE	Principal Examiner
DCM	Division of Capital Markets	PWL	Preliminary Warning Letter
DSA	Division of Special Actions	QA	Quality Assurance
E&I	Office of Examination and Insurance	QAP	Quality Assurance Program
ED	Executive Director	QCR	Quality Control Report
EDS	Economic Development Specialist	RBP	Revised Business Plan
EF	Examiner Finding	RCMS	Regional Capital Market Specialists
EIC	Examiner-in-Charge	RD	Regional Director
EMC	Examination Management Console (in AIRES)	RDL	Regional Director Letter
ET	Earnings Transfer	RISO	Regional Office Systems Officer
ETW	Earnings Transfer Waiver	RLS	Regional Lending Specialist
FFIEC	Federal Financial Institutions Examination Council	RO	Regional Office
FICU	Federally Insured Credit Union	RR	Rules and Regulations
FISCU	Federally Insured State Chartered Credit Union	SC	Supervisory Committee
FPR	Financial Performance Review	SE	Supervisory Examiner
IRR	Interest Rate Risk	SEF	Supervisor Evaluation Form
ISO	Information System Officer	SME	Subject Matter Examiner
LTV	Loan-to-Value	SS	Safety and Soundness
LUA	Letter of Understanding and Agreement	SSA	State Supervisory Authority
		WCC	Work Classification Code

Grouping Associations used in the NSPM

Examiner(s)	Typically refers to DEs and PCOs but includes any type of specialized examiner (RLS, ALS, RCMS, and RISOs)
Supervisor(s)	Typically refers to DSAs and SEs

In the chapters containing templates, the term "SE" was used on many of the templates. If your supervisor is another type of supervisor (a DSA for example), examiners will use "DSA" or other appropriate term as applicable.

Helpful Hints for Hyper Linking

The NSPM contains hyperlinks to both internal bookmarks within the NSPM itself and external links to documents that reside in the e-library, Share Point, and/or outside websites. For external hyperlinks (links outside of the bookmarks within the NSPM), users will need to be connected to the internet and/or the NCUA server to access the links.

If you are using the Microsoft Word version of the NSPM, there is a helpful command you can place on your Quick Access Toolbar that will enable you to return to the place you were in the document before you hyper linked. It is the "back" button in Microsoft Word. You can add this button by going to File → Options → Quick Access Toolbar → and look for the "back" command (green left pointing arrow) to add to the right hand column (you may have to choose "All Commands" from the drop down to show "back" in the list. Once you add the command to the right side and click OK, the "back" button should appear on your top quick access toolbar. This command works for internal hyper links within the NSPM.

Map of Regional Offices



NATIONAL CREDIT UNION ADMINISTRATION REGIONAL OFFICES

