50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1) is revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessels Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Summer 1981 Addenda.

* * * * *

Dated at Bethesda, Maryland this 17th day of June 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-18899 Filed 7-13-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0411]

Regulation Q; Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the Oklahoma counties of Blaine, Caddo, Custer, Kingfisher, Lincoln, Logan, Okfuskee, Payne and Washita.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711) or Beverly A. Belcamino, Attorney (202/452-3623).

SUPPLEMENTARY INFORMATION: On June 18, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Oklahoma counties of Blaine, Caddo, Custer, Kingfisher, Lincoln, Logan, Okfuskee, Payne, and Washita as major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about May 11, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to June 18, 1982, and will remain in effect until 12 midnight, December 18, 1982.

List of Subjects in 12 CFR Part 217

Advertising; Banks, banking; Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of Oklahoma directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, July 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-18939 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Unions; Contractual Agreements

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The purpose of this rule is to replace §§ 701.26, 701.27-1, and 701.28 with one section which enhances the scope of contractual agreements which may be entered into by Federal credit unions. The rule is being promulgated because of the belief that the existing sections, which it will replace, are confining to the extent that many Federal credit unions are unable to benefit from the increasing sophistication of facilities, equipment, and management expertise which is evolving in the financial marketplace. The ability to benefit from the more sophisticated facilities, equipment, and management expertise through contractual agreements will result in improved service to members and economies to all parties involved.

EFFECTIVE DATE: July 7, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph Visconti, Department of Supervision and Examination. Telephone (202) 357-1065.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 1981, a proposed rule for consolidation of § 701.26—Credit Union Service Centers, § 701.27-1—Purchase and Sale of Accounting Services and § 701.28—Joint Operations and Activities into one rule was published in the Federal Register (46 FR 57683 1981) for public comment. The rule eliminated the redundant provisions of the three regulations and set the parameters for credit unions entering into agreements which relate to the daily operations of credit unions.

Comments

All commenters were supportive of the simplification effort. Two commenters recommended total elimination of the rules and the majority of commenters made suggestions to eliminate several of the requirements in the proposal.

One commenter observed that the definition of the term "operational functions" was so broad that it could be interpreted as including the exercise of all the express powers of Federal credit unions. Another commenter stated the term was self-explanatory and did not need an explicit definition. The NCUA Board agrees that the term could be subject to interpretation that is too broad and has eliminated the definition and the term itself in the final rule.

Three commenters stated that the definition of fixed assets by incorporation was unnecessary and confusing. Confusion is also caused by reference in § 701.36(c) to §§ 701.26, 701.27-1 and 701.28. It is agreed that it is not necessary to re-incorporate those

sections into the rule and the definition is deleted. Section 701.36 is also modified to delete the cross reference.

Four commenters recommended elimination of contract requirements because most of the provisions were standard contract requirements or stated elsewhere in the NCUA regulations. The NCUA Board concurs. With the exception of the requirement that books and records relating to the services provided to Federal credit unions be available to NCUA, all contract provision requirements have been removed. However, the NCUA Board is mindful of the fact that some credit union directors may not be aware of minimum contract requirements and will incorporate a list of recommended contract provisions in the next page change revision of the *Accounting Manual for Federal Credit Unions.*

Two commenters argued that the word vendor was too restrictive and that there may be instances where a Federal credit union may wish to enter into a contractual agreement with organizations other than vendors. The NCUA Board concurs and has changed the word vendor to organizations.

One commenter stated that there are instances where it may be expedient for a Federal credit union to act as a representative for another organization to facilitate the sale or sharing of its excess resources and requested comment on the applicability of the practice to this rule. The instance cited by the commenter was where credit unions with excess data processing time acted as a representative for a service organization. The credit unions sell their excess time to the service organization which re-sells it to other credit unions. The selling credit unions then represent the service organization by processing the work and are reimbursed by the service organization. This, according to the commenter, facilitates the sale of the excess time and obviates the need for the credit union, selling excess time, to get involved in other areas such as billing, customer service, and training.

The NCUA Board is of the opinion that there are many instances in joint operations and other resource sharing situations where a credit union acts as a representative of another credit union or organization in the normal course of business. Examples are sharing of management services, loan operations and negotiations with vendors for shared services or products. However, the situations under which a credit union represents another organization should be clearly stated in the contractual agreement.

Two commenters indicated the requirement for a Federal credit union to maintain in its files the specific information concerning the procedures to be used by parties for compliance with contractual agreements is not needed because that information would be in the credit union files under normal business practices. The NCUA Board concurs and that provision is deleted.

Three commenters recommended removal of the limitation of advance payments to other organizations because the limitation appears arbitrarily set and not reflective of normal business practice. The intent of the provision is to deter implicit investment in organizations that are not authorized in the Federal Credit Union Act. However, the NCUA Board is aware that there are instances where it may be advantageous to prepay for services for a longer period of time and is modifying the provision. Where an agreement calls for a prepayment for services greater than 90 days, it will be considered to be an investment in a credit union service organization under the investment authority delineated in Sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 12 U.S.C. 1757(5)(D)). Thus, all prepayments (in excess of 90 days) for services must be included in determining whether investments in credit union organizations are within the statutory limits delineated in Section 107(7)(I) of the Federal Credit Union Act.

Two commenters recommended deletion of the provision for surety bond requirements. One commenter pointed out that surety bond coverage requirements are already stated in the NCUA rules and regulations and did not need restating. The other commenter indicated that there are many situations where bond coverage would not be applicable or obtainable. The NCUA Board considers both points valid and has withdrawn this provision from the rule.

One commenter asked that the portion of the rule prohibiting officials, employees or family members from having an interest or receiving a salary from a contracted organization be liberalized. The commenter felt that by allowing organization employees to be on credit committees and on the boards of directors, communications between professionals and volunteers would improve and decision making would be facilitated. Another commenter indicated that this prohibition was adequately covered in Article XIX, Section IV of the *Federal Credit Union Bylaws.*

The NCUA Board concurs that the bylaw provisions are sufficient to guard against abuse and will drop this provision from the rule. However, the NCUA Board will consider any compensation to officials that is tied to the amount of business activity generated by an agreement as a misappropriation of the credit union income or "corporate opportunity" and will deal with the situation accordingly.

Several commenters recommended deletion of the requirement for regional director approval to permit contractual agreement income to exceed 10 percent of total income. One commenter recommended that it be left to the discretion of NCUA examiners to decide if income from contractual agreements is affecting credit union safety and soundness. Another commenter suggested NCUA monitor the activity and act when there are grounds for legitimate concerns in this area. The NCUA Board concurs and will drop the requirement from the rule. Contractual agreement income will be monitored during examinations and through EDP surveillance of call reports submitted to NCUA.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small credit unions (less than $1 million in assets) because the rule lessens the burden for these credit unions in a number of areas. Therefore, a Regulatory Flexibility Analysis is not required, 5 U.S.C. 605(b).

Effective Date

Final rule is being made effective in less than 30 days because it relieves restrictions, 5 U.S.C. 553(d)(1).

Determination To Not Obtain Public Comments on the Modification of Section 701.36

The NCUA Board finds, for good cause, that obtaining public comment on the modification of § 701.36 is unnecessary because the modification is needed to eliminate cross reference provisions and does not change any other provision of the rule. Therefore, solicitation of public comment is not required, 5 U.S.C. 553(B).

List of Subjects in 12 CFR Part 701

Credit unions, Reporting requirements.

By the NCUA Board, July 7, 1982.

Rosemary Brady,

Secretary of the Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

(Sec. 120, 73 Stat. 035 (12 U.S.C. 1768), sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Accordingly, Title 12 of the Code of Federal Regulations is amended as set forth below:

1. Section 701.26 is revised to read as follows:

§ 701.26 Credit union service contracts.

(a) A Federal credit union may act as a representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Agreements must be in writing, and shall advise all parties subject to the agreement that the goods and services provided shall be subject to examination by the NCUA Board to the extent permitted by law.

(b) Where any agreement calls for, or requires, the payment in advance of the actual or estimated charges for more than 3 months such payment shall be deemed an investment in a credit union service organization and subject to the limitations delineated in Sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

§§ 701.27–1 and 701.28 [Removed]

2. Sections 701.27–1 and 701.28 are removed.

3. Section 701.36(c)(1) is revised to read as follows:

§ 701.36 FCU ownership of fixed assets.

* * * * *

(c) Investment in Fixed Assets. (1) No Federal credit union with $2,000,000 or more in assets, without the prior approval of the Administration, shall invest in fixed assets if the aggregate of all such investments exceeds 5 percent of assets.

* * * * *

[FR Doc. 82–19171 Filed 7–13–82; 8:45 am]
BILLING CODE 7535–01–M

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12 CFR Part 701

Credit Union Service Organizations

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This final rule provides for considerable expansion in the list of permissible activities for a credit union service organization and permits them to be profit-making entities. This rule removes regulatory restrictions that limit the ability of Federal credit unions to compete effectively in today's marketplace and will ultimately allow them to better serve their members.

EFFECTIVE DATE: July 7, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Todd A. Okun, Assistant General Counsel, (202) 357–1030.

SUPPLEMENTARY INFORMATION: On March 4, 1982, the NCUA Board issued a proposed rule soliciting public comment on a proposal to deregulate 701.27–2 of the NCUA Rules and Regulations. The proposal would retitle 701.27–2 as "Credit Union Service Organizations" indicating that such entities would no longer be limited solely to the corporate form. In addition, the proposal would leave to the descretion of a Federal credit union's board of directors the identity of investment partners, the percentage of services to be sold to noninvesting credit unions and most other general business matters. It was proposed to permit these entities to be profit-making ventures and that the current approval procedures for this type of investment be significantly simplified. The proposal was based on a determination by the NCUA Board that the current rule may be having a stifling effect on the innovation and flexibility of credit unions in utilizing the service organization concept, especially in these difficult economic and budgetary times.

Summary of Comments

Of the 38 comment letters received, 36 were in support of the proposed regulation (although some proposed even more or complete deregulation). The two opposing comments indicated that such a deregulation would be to the detriment of smaller credit unions that could not afford to take advantage of expanded opportunities. It is the view of the NCUA Board, however, that these expanding opportunities will not obscure one of the original purposes of credit union service organizations: to permit small credit unions to join together to perform functions and engage in activities at a lesser cost than could be accomplished singly. Therefore, the Board does not believe that adoption of the proposed regulation, with appropriate modifications, will work to the detriment of smaller credit unions.

The NCUA Board has determined to adopt the proposed regulations with the changes outlined below.

1. The title of the regulation shall be changed to "Credit Union Service Organizations," as proposed, to reflect the fact that the corporate form is no longer mandatory. The regulation shall be renumbered as Section 701.27. By separate Board action, the previous Section 701.27–1, Purchase and Sale of Accounting Services, has been deleted.

2. As proposed, a credit union service organization:

(a) Need not provide services to each of its investing credit unions nor must it limit its provision of services to noninvestors to any particular percentage of the previous fiscal year's cost of operation,

(b) Need not be a non-profit entity,

(c) Need not limit its fee charges to an amount sufficient only to cover the cost of the services provided,

(d) Need not be the recipient of investment funds from a credit union in order to receive a loan from that credit union, and

(e) Need not engage in the present cumbersome approval procedure.

Significant Issues

1. *Purpose of Credit Union Service Organizations.* The majority of comments suggested changes and significant expansion of subsection (b) of the proposed regulation which describes the purpose of a credit union service organization and sets out permissible activities. Several commenters noted that the proposed "purpose" clause speaks in terms of a credit union service organization providing "only" goods and services and performing "only" these functions associated with the routine credit union operations. This contrasts with both section 107(5)(D) of the Federal Credit Union Act concerning lending to credit union service organizations, which speaks in terms of such an organization being established "primarily" to meet the needs of its member credit unions, and with section 107(7)(I) of the Federal Credit Union Act concerning investment in credit union service organizations which does not specifically limit these organizations to "only" performing functions or providing services associated with routine credit union operations. The NCUA Board is persuaded that a credit union service organization need not be limited to providing services only to credit unions. Thus, credit union service organizations may provide services to other organizations as well as to credit unions. Statutory limitations will, however, continue to apply. Thus, credit union service organizations must be established for the *primary* purpose of serving credit unions, and the word "only" has been deleted.

2. *Permissible Activities.* Commenters had various suggestions for additions to the list of permissible activities and

services. It is clear that a very specific listing would be fraught with problems not only because of the probability of a prohibitively lengthy list, but because different credit unions refer to different services and functions by different names resulting in a considerable amount of confusion. Therefore, the NCUA Board has concluded that in some cases broader, more general categories of activities with appropriate examples will delineate the thrust of the type of activity to be considered without raising the need to approve such specific activity. The Board has also expanded the categories in line with recommendations of various commentors. The NCUA Board is pre-approving broad permissible investments in compliance with the Federal Credit Union Act. It is strongly urged that credit unions obtain opinions of counsel prior to engaging in activities about which there may be any legal questions. Also, it is noted with respect to activities not covered by the revised, broadened listing that requests may be made to NCUA for approval on a case by case basis.

3. *Insurance Activities.* Many commenters suggested that credit union service organizations be permitted to sell insurance. It should be noted that in the proviso to section 107(7)(1) of the Federal Credit Union Act, upon which this regulation is based, there is a strict prohibition on Federal credit union investment in an insurance company. The Board believes, however, that a credit union service organization may act as an agent for the sale of insurance and that this activity is distinguished from acting as an insurance company, i.e. an insurance underwriter. Thus, the regulation has been revised by adding to the list of permissible activities the authority of a service organization to act as agent for the sale of liability, casualty, automobile, life, health, accident, title and other insurance.

4. *Pecuniary Interests.* The proposed regulation prohibited officials and employees of a Federal credit union from having a pecuniary interest in a credit union service organization in which it has invested or to which it has loaned funds. It also prohibited an official of a Federal credit union from receiving a salary or compensation from a credit union service organization in which that Federal credit union has invested or to which it has loaned funds, except for reimbursement for necessary expenses. Several commenters felt these prohibitions to be unwarranted. It was noted that, in any event, a Federal credit union's bylaws prohibit an official from participating in any vote that might affect his pecuniary interest. Also, the NCUA Board is persuaded that a Federal credit union official may well have a particular skill or talent that so enhances the functioning of a credit union service organization that it would be appropriate to receive compensation above cost reimbursement. This need not run afoul of the Federal Credit Union Act's prohibition on directors' salaries in that compensation would not be based upon the job *as a* director, but rather, on the relationship with the credit union service organization. The NCUA Board is not unaware of the particular possibility of abuse of the prohibition on directors' salaries through the sham use of the credit union service organization vehicle. However, just as is true in the case of officers' and employees' pecuniary interests, the NCUA Board chooses not to make negative presumptions about the integrity and honesty of credit union officials. It will, however, closely monitor such relations and use its administrative enforcement authority over the credit union and its officials should it become necessary. Also, any compensation to Federal credit union officials that is tied to the amount of business activity that is generated for the service organization by this particular credit union will be viewed as a misappropriation of the credit union's income, or "corporate opportunity", and dealt with accordingly. Accordingly, subsection (e) of the proposed regulation is deleted.

5. *Examination by NCUA.* Many commentors did not see the need for subsection (i) of the proposal which subjects credit union service organizations to examination by NCUA to the extent permitted by law. The NCUA Board considers it imperative that this provision remain. The substantial deregulation of § 701.27–2 can lead to the possibility of abuse and unsafe or unsound practice. Therefore, it is imperative that the NCUA Board retain the option to examine, if necessary. This subsection will, however, be combined with subsection (g) involving call reports and requests for other information by NCUA.

6. *Statutory Limitation.* Some commentors believed that subsection (g) is unnecessary in that it merely refers to sections 107(5)(D) and 107(7)(I) as prescribing the limits on lending and investing. The NCUA Board believes, however, that in referring to the statutory provisions in the regulation itself, credit union officials who would not normally refer to these statutory sections will do so and be reminded that there are percentage limits of 1% of total paid-in and unimpaired capital and surplus of the credit union for investment and an additional 1% on lending pursuant to the statute and the regulation.

7. The NCUA Board hereby repeals Policy Statement No. 79–1, concerning credit union service corporation approval under the previous regulation, as it is no longer necessary.

8. The NCUA Board also suggests that Federal credit unions investing in credit union service organizations review their liability insurance coverage and surety bond coverage relating to such investment.

Accordingly, the NCUA Board has adopted a final rule as set forth below.

List of Subjects in 12 CFR Part 701

Credit unions.

Effective Date

These amendments are being made effective in less than 30 days because they relieve a regulatory restriction, 5 U.S.C. 553(d)(1).

Procedures for Regulatory Development

The NCUA Board certifies that these proposed changes, if adopted, will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than $1,000,000 in assets). These proposed changes, if adopted, will increase the management flexibility of small credit unions, increase their competitive positions and reduce their paperwork burden. Therefore, a regulatory analysis is not required. 5 U.S.C. 605(b).

Dated: July 7, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

(Sec. 107, 94 Stat. 132 (12 U.S.C. 1756), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Section 701.27–2 is redesignated as § 701.27 and is revised to read as follows:

§ 701.27 Credit union service organization.

(a) For purposes of this section, a "credit union service organization" is an entity defined in section 107(5)(D) or described in section 107(7)(I) of the Federal Credit Union Act.

(b) The purpose of a credit union service organization is to provide goods and services and perform functions that are associated with routine credit union

operations. It may provide any or all of the following functions or services:

(1) Credit union operational functions including, but not limited to, credit union service centers, credit card and debit card services, ATM services, accounting systems, data processing, management training and support, payment item processing, record retention and storage, locator services, research services, debt collection services, credit analysis and loan servicing, and coin and currency services;

(2) Family financial services including, but not limited to, financial planning and counseling, including retirement counseling, estate planning and income tax preparation, developing and administering IRA and Keogh plans and other personnel benefit plans, and provision of trust services including acting as trustee or in other similar fiduciary capacities;

(3) Acting as agent for the sale of liability, casualty, automobile, life, health, accident, title and other insurance;

(4) Personal property leasing and development of leasing plans; and

(5) Other services, as determined by the Board, that are associated with the routine operation of credit unions.

(c) A Federal credit union may, either by itself or by agreement with other entities, form or invest in a credit union service organization.

(d) A Federal credit union investing in or lending to a credit union service organization must submit all reports or any other information concerning a credit union service organization upon request by the NCUA Board. In addition, a credit union service organization shall be subject to examination by the NCUA Board to the extent permitted by law.

(e) A Federal credit union may invest in and lend to a credit union service organization within the limits delineated in sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

[FR Doc. 82-19103 Filed 7-13-82; 8:45 am]
BILLING CODE 7535-01-M

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12 CFR Part 745

Clarification and Definition of Account Insurance Coverage

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration Board is amending its regulations governing insurance of accounts in federally insured credit unions to provide $100,000 insurance coverage for the interest of each participant in a deferred compensation plan.

EFFECTIVE DATE: July 12, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Steven R. Bisker, Senior Attorney, or Fredrick S. Lipton, Staff Attorney, Office of General Counsel, at the above address, (202) 357-1030.

SUPPLEMENTARY INFORMATION: Section 207(c)(1) of the Federal Credit Union Act (the Act) (12 U.S.C. 1787(c)(1)) provides, in relevant part, that "the term 'insured account' means the total amount of the account in the member's name * * * less any part therof which is in excess of $100,000. * * * The Board may define, with such classifications and exceptions as it may prescribe, the extent of the insurance coverage provided for member accounts. * * *" Pursuant to this statutory authority, the NCUA Board is amending Part 745 of the NCUA rules and regulations (12 CFR Part 745) to insure the separate interest of each employee participant in a deferred compensation plan.

Generally, a deferred compensation plan is a contract by an employee with an employer to defer a specified amount of the employee's wages or other compensation. The deferred funds are invested by the employer for the employee's benefit and, if the parties agree, may be invaded for the employee's benefit in the case of an emergency beyond the employee's control. The deferred compensation, and any benefits accumulated under the deferred compensation plan, are paid to the employee upon retirement or separation from employment. Typically, this payment is made to the employee over a course of years.

The funds in a deferred compensation plan usually remain the sole property of the employer. In some cases this is done to satisfy the provisions of sections 451 or 457 of the Internal Revenue Code (I.R.C. §§ 451, 457). These sections postpone taxes on the deferred income until the year in which such income is paid to a plan participant. Even though the funds are held by the employer, the funds must be used for the participant's benefit. If the employer becomes insolvent, however, the funds may become depleted and would no longer be available to the employee.

At the present time, the interest of employees, i.e., participants, in non-trusteed deferred compensation plans are *not* separately insured. *See* §§ 745.2 and 745.9-1 of the NCUA Rules and Regulations (12 CFR 745.2, 745.9-1). Upon further consideration, the NCUA Board believes that for purposes of determining the extent of insurance coverage, the differences between a deferred compensation plan and the interest of a beneficiary in a trusteed employee pension plan are not significant.

In order to obtain extended insurance coverage, a plan must specifically set out the interest of each covered employee participant and such an employee must be a member of the credit union in which the funds are maintained. That is, whether or not a retirement plan is qualified with respect to tax consequences under rules issued by the internal Revenue Service, the interest of each employee that is to be insured must be ascertainable from records available to the credit union. Thus, for insurance purposes, the tax consequences of a given retirement plan are not relevant.

The final rule would extend the insurance coverage to all deferred compensation plans, even if they do not comply with the provisions of the Internal Revenue Code, and regulations promulgated thereunder, addressing the tax treatment of such plans. However, it should be noted that, as is the case with trusteed pension plans, in order to qualify for extended insurance of up to $100,000 for the interest of each employee participant, the employee must be a member of the Federal credit union in which the employer's account is maintained.

Regulatory Procedures

The NCUA Board certifies that the final rule will not have a significant economic impact on any small Federally-insured credit unions. The final rule will provide share insurance for each employee's interest in a deferred compensation plan. Since such insurance would be paid by the NCUSIF in the event of an involuntary liquidation of a Federal credit union, the final rule would not subject Federal credit unions to any new requirements or require them to take any new actions. Therefore, a regulatory flexibility analysis is not required, 5 U.S.C. 605(b).

The NCUA Board has determined that notice and public comment on this rule are unnecessary and not in the public interest. 5 U.S.C. 553(b)(B). The final rule will afford additional protection for deferred compensation plan funds and the interest of credit union members in those funds. In addition, the NCUA Board finds that a 30 day delayed effective date is unnecessary. It believes that the expansion and clarification of insurance coverage for interests in