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Thursday, November 7, 1991

Presidential Documents

Title 3—

The President

Proclamation 6369 of November 5, 1991

National Hospice Month, 1991 and 1992

By the President of the United States of America

A Proclamation

Dedicated to serving terminally ill persons and their families, hospice programs have become an important part of our Nation's health care system. This month, we gratefully salute the many outstanding professionals and volunteers who provide hospice care.

By offering a positive and supportive environment, as well as high quality medical care, hospice programs enable terminally ill persons to live peacefully and comfortably in their final days. In so doing, these facilities and services not only reaffirm the inherent dignity and worth of every individual but also demonstrate reverence for human life in all its stages. Relying on the combined knowledge, skills, and compassion of a full team of professionals and volunteers—including physicians, nurses, counselors, therapists, and members of the clergy—hospice programs also help patients' families to cope with their bereavement.

As hospice personnel well know, caring for terminally ill persons can be physically and emotionally exhausting. Fortunately, the establishment of a permanent Medicare hospice benefit and an optional Medicaid hospice benefit has made it possible for more Americans to obtain needed medical and support services. In addition, concerned individuals and agencies in both the public and private sectors have maintained strong working relationships in the interest of hospice care benefits.

In recognition of the importance of hospice programs and in honor of the many dedicated professionals and volunteers who care for terminally ill persons, the Congress, by Public Law 102-121, has designated November 1991 and November 1992 as "National Hospice Month" and has authorized and requested the President to issue a proclamation in observance of these months.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 1991 and November 1992 as National Hospice Month. I encourage all Americans, as well as government officials and health care providers, to observe these months with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.

G Bush

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Rules and Regulations

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 709

Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA is issuing a new part 709 to its Rules and Regulations. This rule sets forth procedures applicable to revocations of charter and involuntary liquidations of Federal credit unions pursuant to 12 U.S.C. 1787(A)(1)(A), (B). It also sets forth procedures applicable to involuntary liquidations and adjudication of creditor claims against all federally insured credit unions. The Board believes this regulation will provide guidance to its employees conducting liquidations and to claimants seeking to assert a claim against a credit union in liquidation.

EFFECTIVE DATE: November 7, 1991.

ADDRESSES: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: John K. Ianno, Trial Attorney, Office of General Counsel, NCUA, at the above address, or telephone: (202) 682–9630.

SUPPLEMENTARY INFORMATION:

A. Background

The NCUA has statutory authority to liquidate insolvent Federal credit unions pursuant to 12 U.S.C. 1787(a)(1)(A). Upon appointment by the appropriate state authorities, NCUA also acts as liquidating agent for insolvent, state-chartered federally insured credit unions. 12 U.S.C. 1787(j). As liquidating agent of federally insured credit unions, the NCUA has broad powers to act in place of former officials of the institution and do all things necessary to wind up the affairs of the institution. These powers help assure that credit union members receive prompt access to their funds and also assure that NCUA is able to fulfill its obligation to minimize the cost of a liquidation to the National Credit Union Share Insurance Fund, thereby protecting the Fund's assets.

Both the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) (1989) and the Crime Control Act (1990) provide explicit language concerning NCUA's duties and responsibilities as liquidating agent. FIRREA also provides a framework for adjudication of creditor claims and requires NCUA to provide for alternative dispute resolution of claims.

Congress recognized that this detailed statutory scheme would likely require implementing regulations and specifically authorized the Board to regulate in this area. *See* 12 U.S.C. 1787(b)(1), (4).

This regulation addresses the powers and duties of NCUA as liquidating agent and establishes creditor claims adjudication and alternative dispute resolution procedures. It does not apply to insurance claims arising out of the liquidation of a federally insured credit union. Insurance claims are decided pursuant to part 745 of NCUA's Rules and Regulations. (See 12 CFR part 745, subpart B.) The Board believes this regulation will provide guidance to its employees conducting liquidations and to claimants seeking to assert a claim against a credit union in liquidation.

B. Comments

The NCUA Board issued a proposed rule on May 29, 1991, with a 60-day comment period (56 FR 24147, 5/29/91). Eight public comment letters were received. Three were from state credit union leagues, two were from national credit union trade associations, two were from law firms which represent credit unions and one was from a federal credit union. All of the commenters, except one state credit union league, agreed in general with the proposed rule.

C. Discussion

Section 709.0 sets forth the scope of part 709, and § 709.1 contains definitions used in this Part. This regulation addresses the powers, duties and responsibilities of the NCUA Board and follows the authority granted to the Board as liquidating agent pursuant to Federal law. See 12 U.S.C. 1787.

Two commenters noted that the regulation does not indicate how NCUA may become liquidating agent for a state-chartered federally insured credit union. The NCUA Board does not have the authority to appoint itself liquidating agent for a state-chartered federally insured credit union. The Board must be appointed by the appropriate state regulatory authority. See 12 U.S.C. 1787(a)(1)(B), (j). Once appointed, the Board then possesses all the rights, powers, and privileges granted by state law to a liquidating agent of a state-chartered credit union. One commenter noted that the regulation establishes a payout priority in an attempt to preempt state law when the Board acts as liquidating agent for state-chartered credit unions. State law will be followed to the extent that it does not conflict or interfere with the Board's statutory authority. Whether a particular state's statute providing for a payout priority different from that established in this regulation is preempted will depend upon the substantive effect of that statute. Generally, the Board believes this is a non-issue because the major claimant against a credit union's assets is the NCUSIF based on its insurance payout and, in reality, it will receive its funds after all other claimants.

Section 709.2 provides that the Board, by operation of law, becomes successor in interest to all rights, powers, and privileges of the credit union and its members, officials and shareholders. Once the Board is appointed liquidating agent, members, officials and shareholders no longer have any right to act on behalf of the credit union. The Board, as liquidating agent, has the right to possession of all assets and property of every description of the credit union.

One commenter objected to the use of the term shareholder stating that members are the owners of the credit union. While it is correct that only members are owners of a credit union, the Board notes that the language in this section tracks the language of 12 U.S.C. 1787(b)(2)(B)(i) which specifically refers to shareholders. However, 12 U.S.C. 1787(b)(2)(A)(i) refers to "accountholders" and 12 U.S.C. 1787(b)(2)(C) refers to "stockholder".

Therefore, the Board has added a new definition "shareholder" as an all inclusive term meaning any party that is the owner of a share, share certificate, or share draft account, or their equivalent under state law, including members and nonmembers. *See* § 709.1 of this part. Accordingly, depending upon the context of the provision, the Board has either deleted the term "members" or replaced it with the term "shareholders".

Section 709.3 sets forth the manner in which officials of a Federal credit union placed into liquidation by the NCUA Board may challenge that action. The board of directors of the credit union in liquidation may meet for the sole purpose of considering and authorizing an action in the name of the credit union to challenge the liquidation. Such an action must be brought in the United States District Court for the district where the credit union is located or the United States District Court for the District of Columbia. The action must be commenced not later than 10 days after the date on which the NCUA Board closes the credit union for liquidation. One commenter noted that the right to challenge an involuntary liquidation by the NCUA should be vested in the shareholders. The board of a credit union is elected by the membership. The NCUA Board considers it appropriate to provide that the credit union's board, as elected representatives of the membership, should vote to authorize a challenge of NCUA's action by the credit union.

Section 709.3 also provides that "No credit union funds are available to pay the legal expenses of a challenge." Seven letters objected to this language. Each commenter argued that this prohibition effectively deprives the credit union's shareholders of due process.

The Board, when acting as liquidating agent, has a fiduciary obligation to conserve the assets of the credit union to assure that creditors and shareholders receive as much money as possible upon completion of the liquidation. This obligation is at odds with advancement of funds to challenge the very action the Board has undertaken. Advancement of funds encourages frivolous challenges that only further dissipate credit union assets. Moreover, there is no statutory requirement in the Federal Credit Union Act requiring that legal fees be made available to challenge an involuntary liquidation. Congress chose to address legal fees only in connection with actions pursuant to section 206 of the Federal Credit Union Act. See 12 U.S.C. 1786(p). The language in that section provides a court, upon application, with discretion to award fees. Significantly, 12 U.S.C. 1787 of the Federal Credit Union Act is silent on the question of legal fees for a challenge. Given this silence, the Board believes it would be inappropriate, as liquidating agent, to advance funds of the credit union to challenge its action.

The right to access the courts to challenge an action and the right to have the challenge paid for are distinguishable. This regulation does not establish an absolute bar to payment of legal fees or eliminate a credit union's access to the courts. A credit union may still challenge NCUA's action by retaining counsel on a contingent fee basis. This was recently recognized in *Federal Sav. & Loan Ins.* v. *Angell, Holmes & Lea & Van Voorhis & Skaggs*, 838 F.2d 395 (9th Cir. 1988) *modified* 842 F.2d 239 (9th Cir. 1988) *cert. denied* 488 U.S. 848 (1988). In that case, the court concluded that a savings association seeking to challenge an involuntary receivership was not without a remedy, absent advancement of legal fees, in that it could challenge by hiring counsel on a contingent basis. Obviously, if the NCUA's action is enjoined by the district court and the credit union is returned to the membership, fees would be available from the assets of the credit union.

Also in connection with § 709.3, two commenters urged the NCUA Board to provide for a pre-seizure hearing or conservatorship prior to placing a Federal credit union into involuntary liquidation. It is well established that pre-hearing seizures are constitutionally permissible provided post-seizure review is granted. See *Fahey* v. *Mallonee*, 332 U.S. 245 (1947). In addition, the legislative history and statutory scheme contemplate quick action to minimize loss to the Insurance Fund and avoid any loss of confidence in the Nation's financial system. Accordingly, the NCUA Board does not believe a pre-seizure hearing or conservatorship is warranted. It should be noted that in cases where insolvency is not a basis for involuntary liquidation and, thus, expeditious action may not be necessary, administrative action is pursued under part 747, subpart E.

Section 709.4 sets forth the powers and duties of the liquidating agent. Subsection (a) requires the liquidating agent to promptly inventory the credit union's assets. Subsection (b) requires the liquidating agent to promptly publish a notice to creditors to present their claims by a specified date, not less than 90 days after initial publication. A similar notice must be mailed to all creditors listed on the credit union's books. The liquidating agent is required to republish the notice one and two months after the initial publication. These subsequent publications do not extend the date by which creditors must file their claims with the liquidating agent.

Subsection 709.4(c) states the liquidating agent's broad discretionary authority to collect all obligations due the credit union and do all other things, consistent with Federal law, desirable or expedient to wind up the affairs of the credit union. This includes *inter alia* the liquidating agent's authority to dispose of assets of the credit union and repudiate contracts. In this regard, § 709.4(c) has been clarified by adding "disaffirmance or repudiation" to the clause in paragraph (6). The statutory basis for this broad authority is 12 U.S.C. 1787(b)(2). Although subsection (c) sets forth many of those things a liquidating agent will be required to do in connection with winding up the affairs of a credit union, it is not intended to be all-inclusive. When liquidating state-chartered federally insured credit unions, in addition to the powers provided under Federal law, the liquidating agent has all the powers and privileges granted a liquidating agent pursuant to state law. See 12 U.S.C. 1787(j).

Two commenters suggested that the regulation expressly require that the liquidating agent file documents or record liens as necessary to perfect any interest acquired in property. The NCUA Board believes that the liquidating agent has this responsibility pursuant to § 709.4(c)(5).

Subsection 709.4(d) sets forth the liquidating agent's authority to expend funds from the liquidated estate for liquidation expenses. This authority is consistent with statutory authority contained in 12 U.S.C. 1787(b)(2). An illustrative list of the types of assets commonly present in a liquidation is included in this section.

Section 709.5 sets forth the provisions relating to priority of payouts from the liquidation estate. Under subsection (a), secured creditors will receive their security to the extent of their claim. The value of any security will be established to the satisfaction of the liquidating agent.

One commenter requested clarification regarding who has the burden of demonstrating the value of any security. The burden is on the creditor. Although it is impossible to identify how that value would be established in every case, the expectation is that it would be done in a commercially reasonable manner. This will be determined by the type of security that is involved.

The second sentence of § 709.5(a) has been clarified. To the extent a claim of a secured creditor exceeds the value of the security, it is treated as an unsecured claim of a general creditor under subsection (b), the schedule of payout priorities. In this regard, the parenthetical phrase in § 709.5(b)(5) has also been clarified. This priority schedule is the same as that currently used in liquidations. Subsection (c) provides that the determination of priorities shall be based on the circumstances that exist on the date of the liquidation and subsection (d) provides that claims arising from repudiation or disaffirmance of any contract, including a lease, shall be considered claims by a general creditor for purposes of payout priority. The general policy that all claims in each category of payout priority should be paid in full before claims from a lower priority are paid is set out in subsection (e). The liquidating agent can, however, pay claims of a lower priority when he determines that adequate funds exist or will be recovered to pay all claims of a higher category in full and such action is reasonably necessary to conduct the liquidation.

One commenter noted that the language of the proposed regulation appears to give uninsured shareholders and the National Credit Union Administration Share Insurance Fund priority in receiving any surplus after all creditors, claimants and administrative expenses are paid. This was not the Board's intent. The National Credit Union Share Insurance Fund, or any other insurer of shares, are entitled to priority under paragraph (b)(6) of this Section only to the extent of their payment of share insurance. Language has been added indicating that if a surplus remains after making distribution in full on all allowed claims in every category, class or priority described in paragraphs (b)(1) through (b)(7) of this section, the surplus is to be distributed to the credit union's shareholders on a pro rata basis. This is consistent with 12 U.S.C. 1787(b)(11)(B). It should be noted, however, that such a surplus would be extremely rare.

Clarification has also been made to § 709.5(b)(6). It now reads as follows: "(6) shareholders to the extent of their respective uninsured shares and the National Credit Union Share Insurance Fund to the extent of its payment of share insurance."

Section 709.6 covers initial determinations of creditor claims. Subsection (a) requires anyone who asserts a claim to do so in writing and to comply with the requirements specified in the notice to creditors. The claim must be submitted within the time provided for in the notice to creditors. Failure to file a timely claim shall be considered a waiver of the claim and shall constitute a bar to any rights or remedies with respect to the claim. All claimants, including those involved in litigation against the credit union at the time of liquidation, must file a claim within the period provided for in the notice. The filing of a claim and the exhaustion of administrative remedies is a prerequisite necessary to establish subject matter jurisdiction in the District Court over any action brought or continued against a credit union in liquidation. *Circle Industries*, v. *City Federal Sav. Bank*, 749 F.Supp. 447 (E.D.N.Y. 1990), *aff'd*, 931 F.2d 7 (2nd Cir. 1991).

One commenter points out that 12 U.S.C. 1787(b)(5)(c)(ii) provides a limited exception to the bar against filing a late claim. That Section provides that the liquidating agent has the discretion to consider an untimely claim provided the following two criteria are present: (1) The claimant did not receive notice of the appointment of the liquidating agent in time to file a claim before the date provided for in the Notice; and (2) the claim is filed in time to permit payment of the claim. This exception has been incorporated into the final regulation.

Under subsection 709.6(b), the liquidating agent has the discretion to request supplemental evidence in connection with a claim and may set reasonable limitations on the size and scope of supplemental evidence. The liquidating agent is required to compile a written record of a claim which he determines to be sufficient to provide a reasonable basis for a decision on the claim. Subsection (c) requires the liquidating agent to render a determination on a claim and notify the claimant within 180 days from the date the claim is filed; failure to render a determination within that time may be treated as a denial of the claim. The liquidating agent and the claimant may extend this period by written agreement. The last sentence of Subsection (c) has been clarified to make it consistent with the first sentence of that Subsection and the statute by adding "and notify the claimant" after the word "claim".

Two commenters objected to treating failure to respond as a denial noting that silence from the liquidating agent should not be considered adequate notice of a denial. It is the expectation of the NCUA Board that, when acting as liquidating agent, it will render a determination on a claim within the prescribed or agreed time period. This language is provided to protect the claimant from procrastination by the liquidating agent. Consistent with the statute, it provides that the claimant may treat a failure by the liquidating agent to respond within the required or agreed to period as a denial and pursue other available remedies to satisfy the claim. A clarification to the last sentence in this section has also been made. That sentence now states "Failure by the liquidating agent to determine a claim within the 180-day period or, if the period is extended, within the extended period, shall be deemed a denial of the claim."

Subsections (d) and (e) require the liquidating agent, whenever a claim is disallowed in whole or in part, to provide a written explanation of the reasons for the action to the claimant. The claimant must also be informed of his appeal rights. Notice of a determination regarding a claim is sufficient if mailed to the claimant's most recent address appearing on the credit union's books, in the claim, or in the documents filed with the claim. If the liquidating agent disallows all or part of a claim, subsection (f) requires him to file with the Board, or its designated agent, a report of his determination. This report must contain the notice to the claimant and the findings by the liquidating agent on all relevant issues.

Section 709.7 sets forth the procedures for appealing the liquidating agent's determination. The claimant must choose one of three options within 60 days of the date of mailing of the initial determination by the liquidating agent. The three options are: (1) File an administrative appeal (as discussed in subsequent sections); (2) file a lawsuit against the liquidated credit union in the United States District Court having jurisdiction over the place where the credit union's principal place of business is located or in the United States District Court for the District of Columbia; or (3) continue a lawsuit commenced before the appointment of the liquidating agent. If the claimant fails to exercise one of these options within the 60-day period, the liquidating agent's determination will be final and the claimant will have no further rights with respect to the claim.

Section 709.8 governs administrative appeals. Subsection (a) is a general section addressing administrative appeals of the initial determination by the liquidating agent. Any request for an administrative appeal must be in writing, addressed to the Board, and specify the type of appeal claimant desires. At this time, there are five types of administrative appeal which may be requested. Discussed in subsequent sections, they are: (1) Hearing on the record; (2) appeal to the Board; (3) mediation; (4) nonbinding arbitration; and (5) neutral fact finding. The determination of whether to agree to a request for an administrative appeal rests solely with the Board. The 60-day period for filing or continuing a lawsuit provided for in § 709.7 is tolled from the date of a request for administrative appeal to the date of the Board's decision regarding the request.

Subsection (b) provides that a hearing on the record will be conducted in accordance with subpart A, part 747 of NCUA's Rules and Regulations. The burden of proof rests with the claimant. Judicial review of a final decision, following a hearing on the record, must be filed within 30 days. Subsection (c) addresses alternative dispute resolution. Paragraph (1) sets forth the procedures applicable to a claimant who requests and receives authorization to appeal the initial determination directly to the Board. This is a written appeal; there is no right of personal appearance before the Board in connection with such an appeal. The appeal must identify the facts on which the request for review is based and identify the portion of the initial determination to which the claimant objects and the reasons for the objection. Any alleged error in the initial determination should be identified. Any evidence relied upon by the claimant which was not provided to the liquidating agent must be made available to the Board.

The Board will issue a decision on the claimant's appeal within 180 days of its receipt of the appeal. Failure to do so may be treated as a denial of the appeal. The Board's decision will be in writing and will constitute final agency action on the claim. Any request for judicial review of the Board's decision must be filed within 60 days of the date of the Board's decision or be forever barred. Judicial review shall be in accordance with chapter 7, title 5 of the U.S. Code in the Court of Appeals for the District of Columbia or the court of appeals for the judicial circuit where the credit union's principal place of business is located.

Paragraph (2) of subsection 709.8(c) provides the Board with the discretion to authorize mediation, nonbinding arbitration or neutral fact finding as means of alternative dispute resolution.

Four commenters focused on language in the proposed regulation which provides that these procedures may be available only at the discretion of the Board as being inconsistent with the statute. The NCUA Board wishes to emphasize that its intent is not to discourage the use of alternative dispute resolution procedures. Nevertheless, 12 U.S.C. 1787(b)(7)(A) provides that these procedures will be available only if the Board agrees to them. Thus, the Board has discretion in this area.

Two commenters noted the summary treatment given this area and a third complained of a lack of incentive for creditors to choose this alternative. As noted, the Board does not wish to discourage use of these procedures. If these procedures are frequently requested by claimants, the Board will consider expanding available options in this area.

Section 709.9 discusses procedures for requesting expedited determination of a creditor claim in lieu of seeking a determination pursuant to the normal procedure in § 709.6.

As provided in subsection (a), the claimant has the burden of demonstrating a need for expedited relief. Claimant must show: (1) Presence of a valid and enforceable or perfected security interest in the assets of the credit union; and (2) that irreparable injury will occur if the normal claims procedure is followed. Under subsection (b), any request for expedited relief, in order to be considered, must be in writing and must be received by the Secretary of the NCUA Board within 30 days of the date of the liquidating agent's mailing of the notice to the creditor. A copy of the request must be simultaneously served on the liquidating agent for the credit union. There is no right of personal appearance before the Board in connection with such a request.

Subsection 709.9(c) provides that a request for expedited relief must include the following: (1) A clear statement of the facts and issues on which the request is based; (2) a description of the nature of any security interest in the assets of the credit union; (3) a statement of the irreparable harm likely to occur if expedited relief is not granted; (4) an assessment of the likelihood of success on the merits; (5) citations to applicable legal authority supporting the request of the merits of the claim itself; and (6) a statement certifying that a copy of the request has been mailed or hand delivered to the liquidating agent on or before the date it was filed with the Board. Under subsection (d) the party requesting expedited review has the burden of demonstrating entitlement to it.

Subsection 709.9(e) provides that the Board may request supplemental information to assist it in its decision regarding a request for expedited review. The Board may specify a date certain for the production of the supplemental information. A failure to provide supplemental information may, at the discretion of the Board, constitute grounds for denial of the relief requested.

As stated in subsection 709.9(f), the Board must render a decision within 90 days of the date the request for expedited relief was filed. If expedited review is granted, the Board's decision will allow or disallow the claim, in whole or in part. If the claim is disallowed in whole or in part, the decision will state the reasons for the disallowance and the procedure for judicial review. If expedited review is not granted, the claim is decided pursuant to the normal claims process set forth in § 709.6. A Board decision to deny expedited review is final.

Subsections (g) and (h) apply in two situations: (1) Where the Board grants expedited review and disallows all or part of the claim; and (2) the Board fails to render any decision on the request for expedited review within 90 days of the date on which the request was filed. In either case, the claimant may seek judicial determination of its rights, with respect to its security interest, by filing a suit or continuing a suit which was filed before the appointment of the liquidating agent. Any suit must be filed or renewed within 30 days after the claimant's right to sue becomes effective under one or two above. Failure to file suit within this period shall be deemed final disallowance of the claim. Claimant shall have no further rights or remedies with respect to the claim.

D. Corrections

A typographical error was made in § 709.5(b)(6) when the word "unsecured" was used instead of the word "uninsured". This has been corrected.

The term "permanent capital base instruments of corporate credit unions" in § 709.5(b)(7) has been corrected to read "membership capital share deposits of corporate credit unions" for consistency with NCUA's proposed part 704—Corporate Credit Unions.

Regulatory Requirements

Regulatory Flexibility Act

The NCUA Board has determined and certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets.) It would not impose an additional burden on credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The Board has determined that the requirements of the Paperwork Reduction Act do not apply.

Executive Order 12612

The NCUA Board, pursuant to Executive Order 12612, has determined that this rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 709

Claims, Credit unions, Liquidation.

By the National Credit Union Administration Board on October 17, 1991.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, a new part 709 is added to title 12, chapter VII of the Code of Federal Regulations to read as follows:

PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

Sec.

Authority: 12 U.S.C. 1766; Pub. L. 101-73, 103 Stat. 183, 530 (1989) (12 U.S.C. 1787 et seq.).

§ 709.0 Scope.

The rules and procedures set forth in this part apply to charter revocations of Federal credit unions pursuant to 12 U.S.C. 1787(a)(1) (A), (B) and the involuntary liquidation and adjudication of creditor claims in all cases involving federally insured credit unions. Section 709.3 applies only to Federal credit unions. Remaining sections of this Part are applicable to all federally insured credit unions. This Part does not apply to share insurance claims arising out of the liquidation of a federally insured credit union. Insurance claims are decided pursuant to part 745 of this chapter.

§ 709.1 Definitions.

For the purposes of this part, the following definitions apply:

(a) *General Counsel* means the General Counsel of the National Credit Union Administration or any attorney assigned to the General Counsel's staff.

(b) *Liquidating Agent* means the NCUA Board or person(s) appointed by it with delegated authority to carry out the liquidation of the credit union.

(c) *Insolvent* means insolvency as that term is defined in § 700.1(j) of this chapter.

(d) *Claim* means a creditor's claim against the credit union in liquidation. This term does not include insurance claims arising out of the liquidation of a federally insured credit union. Insurance claims are decided pursuant to part 745 of this chapter.

(e) *Shareholder* means members, nonmembers, accountholders or any other party or entity that is the owner of a share, share certificate or share draft account or the equivalent of such accounts under state law.

§ 709.2 NCUA Board as liquidating agent.

(a) The Board, as liquidating agent, by operation of law and without any conveyance or other instrument, act or deed, shall succeed to all the rights, titles, powers, and privileges of the credit union, and of its shareholders, officers, and directors, with respect to the credit union and its assets, and such shareholders, officers, or directors, shall not thereafter have or exercise any such rights, powers, or privileges or act in connection with any assets or property of any nature of the credit union.

(b) The Board, as liquidating agent, shall take possession of and title to books, records, and assets of every description of such credit union to which such credit union has rights of possession and title to all offices and other facilities of such credit union.

§ 709.3 Challenge to revocation of charter and involuntary liquidation.

If a Federal credit union is determined to be insolvent and placed into liquidation pursuant to 12 U.S.C. 1787, the Federal credit union may, not later than 10 days after the date on which the Board closes the credit union for liquidation, apply to the United States District Court for the Judicial district in which the principal office of the credit union is located or the United States District Court for the District of Columbia for an order requiring the Board to show cause why it should not be prohibited from continuing such liquidation. Notwithstanding other provisions of this part, the board of directors of the credit union may meet following the placing of the institution into liquidation for the sole purpose of considering and authorizing the filing of this action in the name of the credit union. No such action in the name of the credit union may be instituted without the authorization of the board of directors of the institution pursuant to a valid board of directors resolution. No credit union funds shall be available to pay expenses incurred in bringing a legal action to challenge the Board's liquidation action.

§ 709.4 Powers and duties of liquidating agent.

(a) *Inventory of assets.* As soon as practicable after taking possession, the liquidating agent shall inventory the assets of such credit union as of the date of taking possession, showing the value as carried on the books of the credit union, and the security therefor, if any, a brief description of the assets and any security, and a record of the credit union's creditor and accounts liabilities.

(b) *Notice to creditors.* The liquidating agent shall promptly publish a notice to the credit union's creditors to present their claims, together with proof, to the liquidating agent by a date specified in the notice. This date shall be not less than 90 days after the publication of the notice. The liquidating agent shall republish such notice approximately one and two months, respectively, after the initial publication. At the time of initial publication, the liquidating agent shall mail a notice similar to the published notice to any creditor shown on the credit union's books at the last address appearing therein. If the liquidating agent discovers the name of a creditor whose name does not appear on the credit union's books, a notice similar to the published notice shall be mailed to such creditor within 30 days after the discovery of the name and address.

(c) *General.* The liquidating agent shall collect all obligations and money due such credit union and may, to the extent consistent with its appointment, do all things desirable or expedient in its discretion to wind up the affairs of the credit union including, but not limited to, the following:

(1) Exercise all rights and powers of the credit union including, but not limited to, any rights and powers under any mortgage, deed of trust, chose in action, option, collateral note, contract, judgment or decree, or instrument of any nature;

(2) Institute, prosecute, maintain, defend, intervene, anc otherwise

participate in any and all actions, suits, or other legal proceedings by and against the liquidating agent or the credit union or in which the liquidating agent, the credit union, or its creditors or shareholders, or any of them, shall have an interest, and in every way to represent the credit union, its shareholders and creditors, subject to the direction of General Counsel;

(3) Employ on a salary or fee basis such persons as in the judgment of the liquidating agent are necessary or desirable to carry out its responsibilities and functions, including, but not limited to, appraisers and Certified Public Accountants, and pay the costs out of the assets of the liquidated credit union;

(4) Employ or retain any attorney or attorneys designated by, or acceptable to, the General Counsel in connection with litigation or for legal advice and assistance, for the liquidation generally or in particular instances, and pay compensation and retainers of such attorney or attorneys, together with all expenses, including, but not limited to, the costs and expenses of any litigation, as approved by the General Counsel, out of the assets of the liquidated credit union;

(5) Execute, acknowledge, and deliver any and all deeds, contracts, leases, assignments, bills of sale, releases, extensions, satisfactions, and other instruments necessary or proper for any purposes, including, but not limited to, the effectuation, termination, or transfer of real, personal or mixed property, or that shall be necessary or proper to liquidate the credit union, and any deed or other instrument executed pursuant to the authority hereby given shall be as valid and effective for all purposes as if the same had been executed as the act and deed of the credit union;

(6) With concurrence of General Counsel, disaffirm or repudiate any contract or lease to which the credit union is a party, the performance of which the liquidating agent, in his sole discretion, determines to be burdensome, and which disaffirmance or repudiation in the liquidating agent's sole discretion will promote the orderly administration of the credit union's affairs;

(7) Deposit, withdraw, or transfer funds, and otherwise exercise complete control over all investment or depository accounts maintained by or for the credit union at financial dispository or similar institutions;

(8) Do such things, and have such rights, powers, privileges, immunities, and duties, whether or not otherwise granted in this part 709, as shall be authorized, directed, conferred, or imposed from time to time by the Board, or as shall be conferred by the Federal Credit Union Act;

(9) Exercise such other authority as is conferred by the Federal Credit Union Act; and

(10) Where acting as liquidating agent for a state-chartered federally insured credit union, exercise all the rights, powers, and privileges granted by state law to such a liquidating agent.

(d) *Expenditure of funds of the liquidation.* The liquidating agent shall have power to:

(1) Pay all costs and expenses of the liquidation as determined by the liquidating agent;

(2) Pay off and discharge taxes and liens;

(3) Pay out and expend such sums as are deemed necessary or advisable for or in connection with the preservation, maintenance, conservation, protection, remodeling, repair, rehabilitation, or improvement of any asset or property of any nature of the credit union or the liquidating agent;

(4) Pay off and discharge any assessments, liens, claims, or charges of any kind against any asset or property of any nature on which the credit union or the liquidating agent has a lien by way of mortgage, deed of trust, pledge, or otherwise, or in which the credit union or liquidating agent has any interest;

(5) Settle, compromise, or obtain the release of, for cash or other consideration, claims and demands against the credit union or the liquidating agent; and

(6) Indemnify its employees and agents from the assets of the credit union against liabilities incurred in the good faith performance of their duties.

(e) *Assets, claims, and contracts.* The liquidating agent shall have power to:

(1) Sell for cash or on terms, exchange, assign, or otherwise dispose of, in whole or in part, any or all of the assets and property of the credit union, real, personal and mixed, tangible and intangible, of any nature, including any mortgage, deed of trust, chose in action, bond, note, contract, judgment, or decree, share or certificate of share of stock or debt, owing to the credit union or the liquidating agent; and

(2) Surrender, abandon, and release any chose in action, or other assets or property of any nature, whether the subject of pending litigation or not, and settle, compromise, modify, or release, for cash or other consideration, claims and demands in favor of the credit union or the liquidating agent.

§ 709.5 Payout priorities in involuntary liquidation.

(a) Claimants whose claims are secured shall receive their security. To the extent their respective claims exceed the value of the security for those claims, as determined to the satisfaction of the liquidating agent, they shall each have an unsecured claim against the credit union having priority as provided in paragraph (b) of this section.

(b) Unsecured claims against the liquidation estate that are proved to the satisfaction of the liquidating agent shall have priority in the following order:

(1) Administrative costs and expenses of liquidation;

(2) Claims for wages and salaries, including vacation, severance, and sick leave pay;

(3) Taxes legally due and owing to the United States or any state or subdivision thereof;

(4) Debts due and owing the United States, including the National Credit Union Administration;

(5) General creditors, and secured creditors (to the extent that their respective claims exceed the value of the security for those claims);

(6) Shareholders to the extent of their respective uninsured shares and the National Credit Union Share Insurance Fund to the extent of its payment of share insurance; and

(7) In a case involving liquidation of a corporate credit union, membership capital share deposits of corporate credit unions.

(c) Priorities are to be based on the circumstances that exist on the date of liquidation.

(d) If the repudiation or disaffirmance of any contract or lease gives rise to a claim for damages, such claim shall be considered a general creditor claim under paragraph (b)(5) of this section and not a cost or expense of liquidation under paragraph (b)(1) of this section.

(e) All unsecured claims of any category or class or priority described in paragraphs (b)(1) through (b)(7) of this section shall be paid in full, or provisions made for such payment, before any claims of lesser priority are paid. If there are insufficient funds to pay all claims of a category or class, payment shall be made pro rata. Notwithstanding anything to the contrary herein, the liquidating agent may, at any time, and from time to time, prior to the payment in full of all claims of a category or class with higher priority, make such distributions to claimants in priority categories described in paragraphs (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5) of this section as the liquidating agent believes are reasonably necessary to conduct the liquidation, provided that the liquidating agent determines that adequate funds exist or will be recovered during the liquidation to pay in full all claims of any higher priority. If a surplus remains after making distribution in full on all allowed claims described in paragraphs (b)(1) through (b)(7) of this section, such surplus shall be distributed pro rata to the credit union's shareholders.

§ 709.6 Initial determination of creditor claims by the liquidating agent.

(a)(1) Any party wishing to submit a claim against the liquidated credit union must submit a written proof of claim in accordance with the requirements set forth in the notice to creditors. A failure to submit a written claim within the time provided in the notice to creditors shall be deemed a waiver of said claim and claimant shall have no further rights or remedies with respect to such claim.

(2) Notwithstanding paragraph (a)(1) of this section, the liquidating agent may, at his discretion, consider an untimely claim provide the following two criteria are present:

(i) The claimant did not receive notice of the appointment of the liquidating agent in time to file a claim before the date provided for in the notice; and

(ii) The claim is filed in time to permit payment of the claim.

(b) The liquidating agent may require submission of supplemental evidence by the claimant and by interested parties in the event of a dispute concerning a claim against any asset of the liquidated credit union. In requiring the submission of supplemental evidence, the liquidating agent may set such limitations of time, scope, and size as the liquidating agent deems reasonable in the circumstances, and may refuse to include in the record submissions or portions of submissions not in compliance with such limitations or requirements. The liquidating agent shall compile such written record of a claim or dispute as, in its discretion, is deemed sufficient to provide a reasonable basis for allowing or disallowing a claim or resolving a dispute. This written record shall be considered the administrative record.

(c) The liquidating agent shall determine whether to allow or disallow a claim and shall notify the claimant within 180 days from the date a claim against a credit union is filed pursuant to paragraph (a)(1) of the section. This 180-day period may be extended by written agreement between the claimant and the liquidating agent. Failure by the liquidating agent to determine a claim and notify the claimant within the 180-day period or, if the period is extended, within the extended period, shall be deemed a denial of the claim.

(d) If a claim or any portion thereof is disallowed, the notice to the claimant shall contain a statement of the reasons for the disallowance and an explanation of appeal rights pursuant to § 709.7 of this part.

(e) Notice of any determination with respect to a claim shall be sufficient if mailed to the most recent address of the claimant which appears:

(1) On the credit union's books;

(2) In the claim filed by the claimant; or

(3) In the documents submitted in the proof of claim.

(f) In the event the liquidating agent disallows all or part of a claim, the liquidating agent shall file with the Board, or its designated agent, a report of its determination. This report shall become part of the record and shall include the notice to the claimant and findings on all issues raised and decided by the liquidating agent.

§ 709.7 Procedures for appeal of initial determination.

In order to appeal all or part of an initial decision which disallows a claim, in whole or in part, a claimant must, within 60 days of the mailing of the initial determination, file an administrative appeal pursuant to § 709.8 of this part, or file suit against the liquidated credit union in the United States District Court for the District of Columbia or in the United States district court having jurisdiction over the place where the credit union's principal place of business is located, or continue an action commenced before the appointment of the liquidating agent. If the claimant does not appeal or file or continue a suit, any disallowance shall be final and the claimant shall have no further rights or remedies with respect to such claim.

§ 709.8 Administrative appeal of the initial determination.

(a) *General.* A claimant requesting an administrative appeal may request review pursuant to any of the procedures listed in paragraphs (b) or (c) of this section. Any appeal of the initial determination must be in writing and must specify what type of appeal the claimant requests. The determination of whether to agree to a request for administrative appeal shall rest solely with the Board, which shall notify the claimant of its decision in writing. The 60 day period for filing a lawsuit in United States district court, provided for in § 709.7 of this part, shall be tolled from the date of claimant's request for an administrative appeal to the date of the Board's decision regarding that request.

(b) *Hearing on the record.* Except as provided herein, any hearing requested pursuant to this section shall be conducted in accordance with the provisions of subpart A, part 747, of this chapter. The Board shall render a final decision with respect to such claim after consideration of the hearing record and recommended decision. The Board's determination shall be subject to judicial review under chapter 7 of title 5, United States Code. Any claimant seeking judicial review of the Board's final decision under this paragraph must file a petition in the court of appeals for the circuit in which the principal office of the credit union is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days of the date of the Board's final decision. If a claimant does not file a petition before the end of the 30-day period, the Board's decision shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(1) *Burden of proof.* In any hearing on the record, the burden of proof to establish entitlement to any modification of the initial determination shall rest solely upon the claimant.

(2) *Order of procedure.* In any hearing on the record, at the time for opening arguments, counsel for the claimant shall argue first, and at the time for closing arguments, counsel for the claimant shall argue last.

(c) *Alternative dispute resolution.* Paragraphs (c) (1) and (2) of this section list alternatives for dispute resolution which may be available at the discretion of the Board. From time to time, the NCUA Board may authorize additional alternative dispute resolution processes.

(1) *Appeal to the Board.* Pursuant to this paragraph (c)(1), the claimant may file an appeal with the NCUA Board within the time provided for in § 709.7. The appeal must be in writing and filed with the Secretary of the Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456. There shall be no personal appearance before the Board in connection with an appeal under this paragraph (c)(1).

(i) *Content of appeal.* Any appeal must include:

(A) A statement of the facts on which the appeal is based;

(B) A statement of the basis for the initial determination to which the claimant objects and the alleged error in such determination, including citations to applicable statutes and regulations;

(C) Any other evidence relied upon by the claimant which was not previously provided to the liquidating agent.

(ii) *Procedures for review of the appeal.* (A) Within 60 days of the date of the Board's receipt of an appeal, pursuant to paragraph (c)(1) of this section, the Board may request in writing that the claimant submit supplemental evidence in support of its appeal. If additional evidence is requested, the claimant shall have 45 days from the date of issuance of such request to provide such additional information. Failure by the claimant to provide such additional information may, as determined solely by the Board, result in denial of the claimant's appeal.

(B) Within 60 days from the date of the Board's receipt of an appeal, pursuant to paragraph (c)(1) of this section, the claimant may amend or supplement the appeal in writing. In the event the claimant does amend or supplement the appeal, the provisions of paragraph (c)(1)(ii)(A) of this section, with respect to requests for additional information and responses to such requests, shall apply with equal force to any such amendment or supplement to an appeal.

(iii) *Determination on appeal.* (A) Within 180 days from the date of receipt of an appeal by the Board, the Board shall issue a decision allowing or disallowing claimant's appeal.

(B) The decision by the Board on appeal shall be provided to the claimant in writing, stating the reasons for the decision, and shall constitute a final agency decision regarding the claimant's claim.

(C) Failure by the Board to issue a decision on appeal of the claimant's claim within the 180-day period provided for under paragraph (c)(1)(iii)(A) of this section shall be deemed to be a denial of such appeal for the purposes of paragraph (c)(1)(iv) of this section.

(iv) *Judicial review.* (A) For the purposes of seeking judicial review of actions taken pursuant to paragraph (c)(1) of this section, only a determination on appeal issued by the NCUA Board pursuant to this Section shall constitute a final determination regarding a claim.

(B) A final determination by the Board is reviewable in accordance with the provisions of chapter 7, title 5, United States Code, by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the credit union's principal place of business is located. Any request for judicial review under this subparagraph must be filed within 60 days of the date of the Board's final decision. If any claimant fails to file before the end of the 60-day period, the Board's decision shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(2) The following additional procedures for dispute resolution may be made available at the sole discretion of the Board: mediation; nonbinding arbitration; and neutral fact finding.

§ 709.9 Expedited determination of creditor claims.

(a) *General.* The provisions of this section establish procedures under which claimants may request expedited relief in lieu of the procedures set forth in § 709.6 of this part. A claimant shall be entitled to expedited determination of a claim only upon a showing that there exists a legally valid and enforceable or perfected security interest in assets of the liquidated credit union and that irreparable injury will occur if the routine claims procedure is followed.

(b) *Filing of request for expedited relief.* All requests for expedited relief must be filed within 30 days from the date of mailing, by the liquidating agent, of the notice to the creditor concerned. The request shall be deemed to be filed when received by the Secretary of the Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456. A copy of the request must be simultaneously served upon the liquidating agent for the credit union concerned. There shall be no right of personal appearance before the Board in connection with any claim submitted under this paragraph.

(c) *Content of request for expedited relief.* Any Request for Expedited Relief must contain the following:

(1) A clear and concise statement of the facts and issues on which the request is based;

(2) A clear and concise statement describing the nature of any security interests in any assets of the credit union;

(3) A clear and concise statement of the probable, imminent and irreparable harm likely to occur if expedited relief is not granted;

(4) An assessment of the likelihood of success on the merits of the underlying claim, including statutory citations and relevant documentation supporting the merits of the claim;

(5) Any other relevant documentation that supports the request;

(6) Citations to applicable statutes, regulations, or other legal authority; and

(7) A signed statement certifying that a copy of the request has been mailed or hand delivered to the liquidating agent on or before the day that the request was filed with the Board.

(d) *Burden of proof.* The burden of proving entitlement to expedited relief rests at all times with the requester.

(e) *Additional information.* The Board may order the filing of additional information and or documentation in order to make its determination. Such filing shall be on a date certain, and failure to provide the additional documentation or information may constitute the sole grounds for denial of the request.

(f) *Decision.* Before the end of the 90-day period beginning on the date a request if filed, the Board shall render its decision and provide it to the requester. The Board will determine whether to grant expedited review and allow or disallow the claim or whether such claim should be resolved pursuant to the claims process described in § 709.6 of this part.

(1) *Expedited review denied.* A decision by the Board that expedited review is not appropriate shall be final and the claim shall be decided pursuant to the claims adjudication process set forth in § 709.6 of this part.

(2) *Expedited review granted.* If expedited review is granted, the Board shall decide the claim. If the claim is disallowed, in whole or part, the decision shall contain a statement of each reason for the disallowance and the procedure for obtaining judicial review.

(g) *Period for filing or renewing suit.* Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the liquidating agent, seeking a determination of the claimant's rights with respect to its security interest after the earlier of:

(1) The end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

(2) The date the Board denies all or part of the claim.

(h) *Statute of limitations.* If an action described in paragraph (g) of this section is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with paragraph (g) of this section, the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim that was allowed by the Board). Such disallowance shall be final and the claimant shall have no further rights or remedies with respect to such claim.

[FR Doc. 91-26071 Filed 11-6-91; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 932

[No. 91-559]

Eligibility and Financial Disclosure Requirements for Directors of the Federal Home Loan Banks

AGENCY: Federal Housing Finance Board.

ACTION: Final rule; information collection approval.

SUMMARY: The Federal Housing Finance Board ("Finance Board") is amending its final rule on eligibility, financial disclosure and conflict of interest requirements for directors of the Federal Home Loan Banks ("FHLBanks"), which was published at 56 FR 55205 (October 25, 1991), to include the assigned Office of Management and Budget ("OMB") control number in the regulatory text.

EFFECTIVE DATE: November 25, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon B. Like, Attorney/Advisor, Office of the General Counsel, (202) 408-2930, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On October 25, 1991, the Finance Board published a final rule under 12 CFR part 932 on eligibility, financial disclosure and conflict of interest requirements for directors of the FHLBanks (56 FR 55205). OMB has approved the information collection requirements contained in §§ 932.18(f) (1) through (3) and (g)(1), 932.21(g) (1) through (3), and 932.23 of the final rule pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35, and has assigned these collections OMB control number 3069-0002, expiration date October 31, 1994.

Under OMB's regulations implementing the Paperwork Reduction Act, agency regulations containing information collection requirements that are published in the Federal Register also must publish the OMB control number as part of the regulatory text or as a technical amendment. 5 CFR 1320.7(e)(2). This document of the Finance Board amends the applicable sections of the Finance Board's final director eligibility rule to include the assigned OMB control number in the regulatory text.

In accordance with 5 CFR 1320.21 of OMB's regulations, the following table discloses the estimated annual reporting burden for each collection of information in the final rule:

ESTIMATED ANNUAL REPORTING BURDEN

Description of information collection	Avg. No. of respondents	×	Avg. No. of responses per respondent	=	Total avg. responses	×	Wtd. avg.[1] minutes per response	=	Total wtd. avg. hours
1. A-1 Appointive Director Candidates—Personal Certification and Disclosure Form	120		1		120		[2] 50		100
2. A-2 Appointive Directors—Personal Certification and Disclosure Form	48		1		48		60		48
3. E-1 Elective Director Nominees—Personal Certification and Disclosure Form	180		1		180		[3] 40		120
4. E-2 Elective Directors—Personal Certification and Disclosure Form	60		1		60		60		60
Totals	408		1		408		[4] 50		[5] 328

[1] Assumes an average of 60 minutes to complete *all* sections of the Form. "Wtd." = weighted.
[2] ((72 finalists × 60 minutes) + (48 candidates not selected × 30 minutes)) / 120 total appointive director candidates = 48 minutes (rounded to 50 minutes).
[3] ((60 finalists × 60 minutes) + (120 nominees not elected × 30 minutes)) / 180 total elective director nominees = 40 minutes.
[4] Rounded from 48 minutes.
[5] This number was estimated originally at 394 hours in the Finance Board's Paperwork Reduction Act Analysis in its proposed rules (56 FR 37303 (Aug. 6, 1991)). However, further analysis of the reporting burden indicated that the initial Analysis had overestimated the total burden to respondents. The revised estimate of 328 hours was subsequently submitted to OMB for clearance under the Paperwork Reduction Act.

Any comments on this information collection should be sent to the Office of Information and Regulatory Affairs, OMB, Attention: Gary Waxman, room 3201, New Executive Office Building, Washington, DC 20503; with copies to the Executive Secretary, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

List of Subjects in 12 CFR Part 932

Conflict of interests, Federal home loan banks, Reporting and recordkeeping requirements.

Accordingly, title 12, chapter IX, subchapter B of the Code of Federal Regulations is amended as follows:

PART 932—ORGANIZATION OF THE BANKS

1. The authority citation for part 932 continues to read as follows:

Authority: Secs. 2A, 2B, as added by sec. 702, 103 Stat. 413, 414 (12 U.S.C. 1422a, 1422b); secs. 6-7, 47 Stat. 727, 730, as amended by secs. 707, 710(b)(4), 103 Stat. 417, 418 (12 U.S.C. 1426-1427); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 207, 62 Stat. 692, as added by sec. 1a, 76 Stat. 1123, as amended (18 U.S.C. 207); sec. 602, 92 Stat. 2115, as amended (42 U.S.C. 8101, *et seq.*).

§§ 932.18, 932.21, 932.23 [Amended]

2. Sections 932.18, 932.21 and 932.23 are amended by adding the parenthetical "(Approved by the Office of Management and Budget under control number 3068-0002)" at the end of each section.

Dated: October 31, 1991.

By the Federal Housing Finance Board.

J. Stephen Britt,

Executive Director.

[FR Doc. 91-26825 Filed 11-6-91; 8:45 am]

BILLING CODE 6725-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-ANE-38; Amendment 39-8082; AD91-23-13]

Airworthiness Directives; General Electric Company (GE) CF6-50 Series and CF6-80A Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.