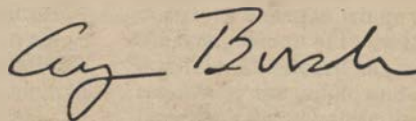


to the Secretary by June 30, 1992, for inclusion in the Secretary's October 1, 1992, report on implementation of this order.

Sec. 3. *Application of Resources.* The head of each executive department and agency shall be responsible for implementing and applying the necessary resources to accomplish the goals set forth in the Metric Conversion Act and this order.

Sec. 4. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person.

THE WHITE HOUSE,
July 25, 1991.



[FR Doc. 91-18028

Filed 7-25-91; 3:06 pm]

Billing code 3195-01-M

[Faint handwritten signature]

THE WHITE HOUSE

Rules and Regulations

Federal Register

Vol. 56, No. 145

Monday, July 29, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

[Regulations G, T, U and X]

Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

July 23, 1991.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is comprised of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) represents foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to or deletions from the previous OTC List and additions to the previous Foreign List. Both Lists were published on April 29, 1991 (56 FR 19547) and effective on May 13, 1991.

EFFECTIVE DATE: August 12, 1991.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation (202) 452-2781, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION: Listed below are additions to or deletions from the OTC List. This supersedes the last

OTC List which was effective May 13, 1991. Additions and deletions to the OTC List were last published on April 29, 1991 (56 FR 19547). A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly publication of the OTC List.

The second group of securities represents additions to the Board's Foreign List, which was last published April 29, 1991 (56 FR 19547) and effective May 13, 1991. There are no deletions to the Foreign List. Stocks on the Foreign List are eligible for margin treatment at broker-dealers pursuant to a 1990 amendment to Regulation T (12 CFR part 220). The Foreign List includes those stocks that meet the criteria in Regulation T and are eligible for margin at broker-dealers on the same basis as domestic margin securities. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6 (a) and (b), 220.17 (a), (b), (c) and (d), and § 221.7 (a) and (b). No additional useful

information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6(c) (Regulation G), 12 CFR 220.2(u) and 220.17(e) (Regulation T), and 12 CFR 221.2(j) and 221.7(c) (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List, and additions to the Foreign List.

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

Alcide Corporation
\$.01 par common

Algorex Corporation \$.01 par common	Profit Technology, Inc. \$.01 par common	No par common
Alloy Computer Products, Inc. \$.01 par common	Prospect Park Financial Corporation \$1.00 par common	NAPA Valley Bancorp No par common
Amoskeag Bank Shares, Inc. \$1.00 par common	Rax Restaurants, Inc. \$.10 par common	National Health Laboratories Incorporated \$.01 par common
Astrocom Corporation \$.10 par common	Seacoast Savings Bank (New Hampshire) \$1.00 par common	Provena Foods, Inc. No par common
Barry Blau & Partners, Inc. \$.01 par common	Statewide Bancorp \$2.50 par common	Royalpar Industries, Inc. \$.01 par common
Bell, W. & Co., Inc. \$.10 par common	Stratford American Corporation \$.01 par common	Warrants (expire 01-20-92)
Biogen, Inc. \$.01 par convertible, exchangeable preferred	Tempest Technologies, Inc. \$.01 par common	Sensormatic Electronics Corporation \$.01 par common
CF & I Steel Corporation \$5.00 par common	Twin Star Productions, Inc. \$.001 par common	Sizzler Restaurants International, Inc. \$.01 par common
Citizens Growth Properties \$1.00 par shares of beneficial interest	U.S. Gold Corporation \$.01 par common	Southern Bankshares, Inc. \$2.50 par common
Coca-Cola Enterprises, Inc. Warrants (expire 07-10-91)	Unigene Laboratories, Inc. Class A, warrants (expire 08-11-92)	Tocor, Inc. Units (expire 12-31-94)
Duramed Pharmaceutical, Inc. \$.01 par common	United Dominion Realty Trust 9% convertible subordinated debentures	United Banks of Colorado, Inc. \$2.50 par common
E & B Marine Inc. \$.01 par common	Valley Federal Savings & Loan Association (California) No par common	Universal Health Service, Inc. Class B, \$.01 par common
Encore Computer Corporation \$.01 par common	Workingmens Corporation \$.10 par common	US West Newvector Group, Inc. Class A, no par common
Enstar Group, Inc., The \$.50 par common	<i>Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition</i>	Vitalink Communications Corporation \$.01 par common
Famous Restaurants Inc. \$.01 par common	Air Midwest, Inc. No par common	Vivigen, Inc. \$.01 par common
Great American Management & Investment, Inc. \$.01 par common	Angeion Corporation \$.01 par common	Wavetek Corporation \$1.00 par common
Healthco International, Inc. \$.05 par common	Bancorp Hawaii, Inc. \$2.00 par common	Additions to the List of Marginable OTC Stocks
Helian Health Group Inc. Warrants (expire 11-22-92)	Banks of Iowa, Inc. No par common	Advanced Promotion Technologies, Inc. \$.01 par common
Hemodynamics Incorporated \$.01 par common	Benton Oil and Gas Company \$.01 par common	AES Corporation, The \$.01 par common
International Broadcast Systems Inc. Class A, \$.001 par common	Bizmart, Inc. \$.01 par common	Air-Cure Environmental, Inc. \$.001 par common
International Broadcasting Corporation \$.001 par common	Calgon Carbon Corporation \$.01 par common	Alpha 1 Biomedicals, Inc. \$.001 par common
Isomet Corporation \$1.00 par common	Coca Mines Inc. \$.01 par common	American Biodyne, Inc. \$.01 par common
James Madison Limited \$1.00 par common	Warrants (expire 05-05-94)	American Claims Evaluations, Inc. \$.01 par common
John Hanson Bancorp, Inc. \$1.00 par common	Continental Medical Systems, Inc. \$.01 par common	American Dental Laser, Inc. \$.01 par common
Metropolitan Federal Bank, a Savings Bank (Tennessee) \$1.00 par common	Critical Care America, Inc. \$.10 par common	Applied Extrusion Technologies, Inc. \$.01 par common
Microscience International Corp. No par common	Dataphaz, Inc. \$.001 par common	Applied Immune Sciences, Inc. \$.01 par common
Midwest Communications Corporation \$.01 par common	Eastchester Financial Corporation \$.01 par common	Artel Communications Corporation Rights (expire 07-25-91)
Moto Photo, Inc. \$.01 par common	First Federal Savings Bank (Alabama) \$.01 par common	Aspen Bancshares, Inc. \$.01 par common
\$.01 par cumulative, convertible preferred	Hamilton Oil Corporation \$.25 par common	Au Bon Pain Co., Inc. Class A, \$.0001 par common
Warrants (expire 11-25-91)	Inbancshares No par common	Aura Systems, Inc. \$.005 par common
Mr. Gasket Company No par common	Iowa Southern Inc. \$5.00 par common	Automated Security (Holdings) PLC American Depositary Receipts
Normandy Oil & Gas Company, Inc. \$.001 par common	Medical Management of America, Inc. \$.01 par common	Bertucci's Inc. \$.005 par common
Plymouth Five Cents Savings Bank (Massachusetts) \$.10 par common	Mission-Valley Bancorp (California)	Bio-Technology General Corporation \$.01 par common
		Biomedical Dynamics Corporation No par common

Bioplasty, Inc. \$.01 par common	Hi-Lo Automotive, Inc. \$.01 par common	\$.01 par common
Brooktree Corporation No par common	Homedco Group, Inc. \$.01 par common	Quarterdeck Office Systems, Inc. \$.0001 par common
BWIP Holding, Inc. Class A, \$.01 par common	Icos Corporation \$.01 par common	Rag Shops, Inc. \$.01 par common
Calloway's Nursery, Inc. \$.01 par common	Idexx Laboratories, Inc. \$.01 par common	Regis Corporation \$.05 par common
Cambridge Neuroscience Research, Inc. \$.001 par common	IHOP Corporation \$.01 par common	Rehabcare Corporation \$.01 par common
CBL Medical, Inc. \$.01 par common	Immulogic Pharmaceutical Corporation \$.01 par common	Rentrak Corporation \$.001 par common
Warrants (expire 12-21-93)	Integrated Circuit Systems, Inc. No par common	Riddell Sports Inc. \$.01 par common
Centocor, Inc. Warrants (expire 12-31-94) 7¼% convertible subordinated debentures	Integrated Health Services, Inc. \$.001 par common	Ross Systems, Inc. No par common
Central Indiana Bancorp No par common	Interwest Savings Bank \$.20 par common	Scigenics, Inc. Units (expire 05-31-96)
Century Medicorp No par common	Isis Pharmaceuticals, Inc. \$.001 par common	Shoreline Financial Corporation \$1.00 par common
Cephalon, Inc. \$.01 par common	Leslie's Poolmart No par common	Short, C.A., International, Inc. No par common
Chemi-Trol Chemical Co. No par common	Lifetime Hoan Corporation \$.01 par common	Sierra Semiconductor Corporation No par common
Cherokee Inc. \$.01 par common	Machine Technology, Inc. No par common	Sierra Tahoe Bancorp No par common
Chipcom Corporation \$.02 par common	Marrow-Tech Incorporated Class A, \$.01 par common	Software Spectrum Inc. \$.01 par common
Coastal Healthcare Group, Inc. \$.01 par common	Marsh Supermarkets, Inc. Class B, no par common	Stadyn, Inc. Warrants (expire 06-01-93)
Commerce Clearing House, Inc. Class B, \$1.00 par common	Medarex, Inc. \$.01 par common	State Auto Financial Corporation No par common
Cor Therapeutics, Inc. \$.0001 par common	Warrants (expire 06-19-96)	State of the Art, Inc. No par common
Cragin Financial Corporation \$.01 par common	Medimmune, Inc. \$.01 par common	Sunrise Technologies, Inc. No par common
Curative Technologies Inc. \$.01 par common	Moorco International Inc. \$.01 par common	Tanknology Environmental, Inc. \$.01 par common
Danek Group, Inc. No par common	Mylex Corporation \$.01 par common	TSI Corporation \$.02 par common
Devry Inc. \$.01 par common	OESI Power Corporation \$.01 par common	U.S. Homecare Corporation \$.01 par common
Envoy Corporation \$1.00 par common	Osteotech, Inc. \$.01 par common	U.S. Long Distance Corporation \$.01 par common
Filene's Basement Corporation \$.01 par common	Otra Securities Group, Inc. \$.01 par common	United American Healthcare Corporation No par common
First Federal Savings Bank of New Smyrna \$1.00 par common	Outback Steakhouse, Inc. \$.01 par common	Wheatley TXT Corporation \$.01 par common
First Team Sports, Inc. \$.01 par common	Outlook Graphics Corporation \$.01 par common	Wisconsin Central Transportation Corporation \$.01 par common
Fortis Corporation \$.0001 par common	OW Office Warehouse, Inc. \$.01 par common	Xyplex, Inc. \$.01 par common
Franklin Savings Bank, FSB (Michigan) Series A, no par noncumulative convertible preferred	Penril Datacomm Networks, Inc. \$.01 par common	
Future Now, Inc., The No par common	Platinum Technology, Inc. \$.001 par common	<i>Additions to the List of Foreign Margin Stocks</i>
Genelabs Technologies, Inc. No par common	Ponder Industries, Inc. \$.01 par common	Aoyama Trading ¥ 50 par common
General Kinetics Incorporated \$.25 par common	Pope Resources Depository receipts representing limited partnership units	Chubu Electric ¥ 500 par common
Genesis Health Ventures, Inc. \$.02 par common	Professional Care, Inc. \$.02 par common	Daiei, Inc., The ¥ 50 par common
Glycomed Incorporated No par common	Proteon, Inc. \$.01 par common	Daiwa Kosho Lease Co., Ltd. ¥ 50 par common
Hancock Holding Company \$3.33 par common	Pulse Engineering, Inc. Class A, \$.01 par common	Hihon Unisys, Ltd. ¥ 50 par common
	Qual-Med, Inc. \$.01 par common	Iwatani International Corp. ¥ 50 par common
	Quantum Health Resources, Inc.	

Japan Airlines Co., Ltd.
 ¥ 50 par common
 Joshin Denki Co., Ltd.
 ¥ 50 par common
 Komori Corporation
 ¥ 50 par common
 Lion Corporation
 ¥ 50 par common
 Long Term Credit Bank of Japan, Ltd.
 ¥ 50 par common
 Matsushita Electric Industrial Co., Ltd.
 ¥ 50 par common
 Mercian Corporation
 ¥ 50 par common
 Nintendo Co., Ltd.
 ¥ 50 par common
 Sanrio Co., Ltd.
 ¥ 50 par common
 Sega Enterprises, Ltd.
 ¥ 50 par common
 Sumitomo Realty & Development Co., Ltd.
 ¥ 50 par common
 Takasago Thermal Engineering Co.
 ¥ 50 par common
 TDK Corporation
 ¥ 50 par common
 Yurtec Corporation
 ¥ 50 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Staff Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), July 23, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-17786 Filed 7-26-91; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 602 and 603

RIN 3052-AA05

Releasing Information; Privacy Act Regulations; Fees Imposed on Information Requests; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations under parts 602 and 603 on June 21, 1991 (56 FR 28474). The final regulations amend 12 CFR parts 602 and 603 relating to the availability of records of the FCA, pursuant to the Freedom of Information Act of 1986 which established a new fee structure governing the fees which can be imposed for providing information under the Freedom of Information Act. The final regulation also implements the provisions of Executive Order 12600 by providing predisclosure notification

procedures for confidential commercial information. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the *Federal Register* during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is July 29, 1991.

EFFECTIVE DATE: July 29, 1991.

FOR FURTHER INFORMATION CONTACT:

Ronald H. Erickson, Freedom of Information Officer, Office of Congressional and Public Affairs, Farm Credit Administration, McLean, VA 22102-5090 (703) 883-4113,

or

James M. Morris, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090 (703) 883-4020, TDD (703) 883-4444,

12 U.S.C. 2252(a) (9) and (10).

Dated: July 24, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 91-17955 Filed 7-26-91; 8:45 am]

BILLING CODE 6705-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 741

Requirements for Insurance and Eligible Obligations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: This final rule will require any credit union insured by the National Credit Union Share Insurance Fund (NCUSIF) to receive approval from the NCUA Board before either purchasing or acquiring certain loans or assuming or receiving an assignment of certain deposits, shares or liabilities of any credit union not insured by the NCUSIF, of any other financial-type institution, or of any successor in interest to either such institution. NCUSIF-insured credit union purchases of real estate loans and student loans to facilitate packaging of a pool for the secondary market, and purchases of certain member loans, are not subject to the approval process. The regulation on purchase of eligible obligations is amended to refer to the new approval process.

DATES: August 28, 1991.

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

FOR FURTHER INFORMATION CONTACT:

Hattie M. Ulan, Associate General Counsel, Office of General Counsel, or Martin E. Conrey, Staff Attorney, Office of General Counsel, at the above address or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION:

A. Background

On November 26, 1990, the NCUA Board published a proposed rule on the purchases of assets and assumption of liabilities from various depository institutions and their successors in interest. (See 55 FR 49059.) The NCUA issued the proposed rule upon becoming aware of several actual and attempted transactions involving the purchase of assets and/or assumption of liabilities of various depository institutions (including failed institutions) by NCUSIF-insured credit unions. Since many institutions fail due to weaknesses in their loan portfolios or a reliance on non-core deposits, NCUA wanted to ensure protection of the NCUSIF through some method of review and approval of these transactions. The proposal was issued with a sixty day comment period.

B. Comments

Seven comments were received. Two were from national credit union trade groups, three from state credit union leagues, one from an FCU and one from a state credit union regulator. Most of the commenters agreed that some form of regulation or other control was necessary to protect credit unions and ultimately the NCUSIF from certain risky transactions. The principal issues raised by the comments are discussed in the section below. The commenters were split on the desirability of the proposed amendment. Three commenters supported the proposal, but offered certain suggestions in response to questions raised in the proposed amendment. Three commenters felt the proposal was overly broad and vague, and also offered certain suggestions to narrow the scope of the proposed rule. One commenter opposed the rule, but suggested certain ideas to improve the proposal.

C. Discussion and Authority

Investment Assets

The proposed rule required that federally insured credit unions receive approval from the NCUA Board before purchasing or acquiring loans or "investment assets" or assuming or receiving an assignment of deposits, shares or liabilities from specified sources. The NCUA solicited comments on whether "investment assets" in the

proposed § 741.4 should be defined, and if so, how it should be defined. The purpose of this solicitation was to tailor the definition to attain a balance between sufficiently reviewing the purchase of assets that present risk to the NCUSIF and those that do not present such risk.

Two commenters felt that "investment assets" should be broadly defined to include all investments permissible for federal credit unions. The NCUA believes that such a definition would be overly broad and present an administrative burden both upon the NCUA and credit unions for many investments that pose little risk to the NCUSIF, such as purchases of United States obligations.

Four commenters stated that "investment assets" should be defined restrictively, by exclusion. One commenter felt that repurchase agreements and transactions with corporate credit unions should be excluded from the definition because of their routine and relatively risk free nature. Another commenter suggested excluding fixed asset acquisitions, which are already subject to a limitation of 5% of shares and retained earnings. 12 CFR 701.36(c). One commenter proposed that participation loans should be excluded from the definition because they are subject to § 701.22 of the NCUA Rules and Regulations. 12 CFR 701.22. However, the NCUA's loan participation rule does not address the same concerns as does this final rule, and for that reason NCUA believes participation loans should not be exempt from the definition of loans for this purpose. A fourth commenter believed that NCUA should narrowly focus on investments posing real risk to the NCUSIF and survey credit unions for a list of available investment opportunities in today's market and then define the term. The NCUA requested precisely this information in the proposed rule and sees no reason to extend the comment period. The exclusion of routine repurchase transactions, corporate credit union transactions and fixed asset acquisitions makes sense. Since the problems experienced to date by the NCUA have concerned loans, the NCUA has decided to limit the scope of the rule to loans alone at this time. If it becomes necessary, the NCUA will reevaluate the need to add other assets requiring approval at some future date. NCUA does note that it will look at substance over form in transactions, and it is the agency's intent that all acquisitions and purchases of lender/borrower obligations are intended to be included

in the definition of "loan" for purposes of this regulation.

Three commenters suggested a threshold amount that a credit union could acquire before the application requirement was triggered. One of these commenters suggested the threshold be set at 1% of unimpaired capital and surplus for aggregate purchases of loans from a single liquidating seller in addition to the 5% of unimpaired capital and surplus limitation on the aggregate of the unpaid balances of eligible obligations purchased under the existing § 701.23 of the NCUA Rules and Regulations. 12 CFR 701.23. Another commenter suggested that the threshold amount be set at 5% of the acquiring credit union's assets before NCUA approval was required. The third commenter suggested that a floor limit based upon an unstated portion of the purchasing credit union's reserves, under which approval is not required, be established. The NCUA believes that a threshold concept would not meet the objectives of the regulation. If an amount of loans equalling 1% or 5% or any other fixed percentage of a credit union's shares or assets were of poor investment quality, illiquid or of declining value, such losses could pose a threat of instability to the credit union and of loss to the NCUSIF. The purpose of the regulation is to protect the safety and soundness of credit unions and the integrity of the NCUSIF. Therefore, the threshold concept has not been adopted.

Student Loan/Real Estate Loan/ Member Loan

NCUA solicited comments on whether the exception of federal credit union (FCU) eligible obligation transactions set forth in the proposed regulation involving student loans and real estate secured loans pursuant to § 701.23(b) of the NCUA Rules and Regulations should be extended to federally insured state chartered credit unions (FISCUs). 12 CFR 701.23(b). NCUA review indicates that these transactions are routine, such assets are subject to industry standards protecting safety and soundness and, often, the window of opportunity to consummate such transactions is limited and FCUs would be hampered competitively by agency review. Five of the commenters wholeheartedly endorsed the extension of the exemption to FISCUs. The NCUA Board has adopted this extension in the final rule.

Two of the commenters also strongly endorsed the exemption of the purchase of member loans under § 701.23(b)(1)(i) from the coverage under the final rule. Their reasoning is that if the purchase is nothing more than a loan of the credit union's member that the credit union is

empowered to grant, no unusual risk is presented to either the safety and soundness of the acquiring credit union or to the NCUSIF. Finding this approach well reasoned and sound, the final rule extends the exemption to the purchase of eligible obligation member loans.

One of these commenters also requested an extension of the eligible obligation exemption to permit credit unions to acquire whole loans secured by real estate as eligible obligations without the conditions that such purchases be on an ongoing basis by the credit union to facilitate the packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. Such a comment is outside of the scope of the final rule. NCUA notes that it recently considered such an extension of the eligible obligation regulation. 55 FR 1827 at 1829 (January 19, 1990). However, the NCUA Board concluded such a change was not necessary. 56 FR 15034 at 15036 (April 15, 1991).

Information regarding specific powers of FISCUs that FCUs do not have, that might be affected by the proposed regulation, was also solicited. No information on this issue was received.

The NCUA also solicited comments on other methods of tailoring the proposed regulation to achieve its purposes without overly burdening credit unions. One commenter suggested that rollovers of retirement accounts be exempt from the application and approval process of the final rule due to their routine nature. Another commenter suggested that a credit union's perfection of the security interest in the form of a share or other deposit account in another financial institution should also be exempt from coverage of the final rule. Given the routine nature of these transactions, and the lack of risk to the NCUSIF, an exception has been provided in the final rule for both.

Extending Coverage of Rule

The proposed rule covered certain acquisitions from uninsured credit unions, other depository institutions, their successors in interest and insured credit unions that are not in liquidation. NCUA solicited comments on whether the rule should be extended to cover purchases from entities other than credit unions or depository institutions. Three commenters felt that the number of entities covered by the rule should not be extended at this time because of potential interference with the business decisions of a credit union and insufficient information regarding transactions between such entities and credit unions which present safety and

soundness concerns as well as risk to the NCUSIF. One commenter proposed that the number of entities covered by the rule should be extended to other entities from which credit unions could purchase or acquire substandard loans. NCUA staff also feels strongly that the coverage should be broadened to include mortgage banks, consumer finance companies, insurance companies, loan brokers and other loan sellers or liability traders. Therefore, the final rule applies to "financial-type" institutions. Depository institutions as well as the types of institutions mentioned above defined as financial-type institutions in § 741.4(a)(2) of the final rule.

One commenter questioned the coverage of noninsured credit unions and NCUSIF-insured credit unions not in liquidation, but not NCUSIF-insured credit unions in liquidation. Upon further reflection, the NCUA believes that the NCUSIF is not exposed to more risk when a federally insured credit union is purchasing or acquiring loans from other NCUSIF-insured credit unions or assuming or receiving shares, deposits or liabilities from other NCUSIF-insured credit unions. Likewise, such exchanges should not unduly affect the safety and soundness of NCUSIF-insured credit unions because of regulations applicable to these credit unions which are examined for and enforced by appropriate regulators. Because of this, the NCUA has decided to drop transactions between NCUSIF-insured credit unions from the coverage of this rule.

Implementation

Four commenters requested guidance be provided on the application process. Section 205(c) of the FCU Act provides factors for the NCUA Board to consider in determining whether to grant or withhold approval or consent for transactions covered by the final rule. These factors are: (1) The history, financial condition, and management policies of the credit union; (2) the adequacy of the credit union's reserves; (3) the economic advisability of the transaction; (4) the general character and fitness of the credit union's management; (5) the convenience and needs of the members to be served by the credit union; and (6) whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident and productive purposes. 12 U.S.C. 1785(c). In particular, the NCUA Board believes that the market volatility and liquidity of the loans or deposits to be acquired and the potential risk to the NCUSIF will be

determining considerations. As stated in the supplementary information section of the proposed rule, the NCUA might review any such dealings for thorough due diligence investigation, fair negotiation (absence of conflicts of interest and evidence of arm's length dealing), proper contract subject matter, reasonable pricing (to protect against waste of corporate assets), and adequate and prudent documentation and closing methods of the transaction by the purchasing or assuming insured credit union before consummation. Furthermore, the NCUA might review such a transaction for any potential effects upon the credit union's membership, liquidity, profitability, management and support capabilities, quality controls, concentrations of credit, diversity of portfolio investments, risk weighted assets, and capital ratio. One commenter questioned whether the four commenters will evaluate by are realistic.

NCUA has years of expertise in evaluating credit union transactions and believes that it has ample ability and expertise to evaluate the applications required by the final rule. Four of the commenters requested specific application forms, guidelines or written policies on the application process required by the final rule. NCUA staff will review the need for such documentation, and, if deemed necessary, such documentation will be released to credit unions.

Four commenters requested information on a timetable for agency action on required applications, expressing concern about the potential for lost business opportunities due to the application process. As each application will be considered on its own merits, the NCUA Board cannot release a generic timetable. However, the NCUA Board fully intends to review all applications as quickly as a thorough evaluation will allow. One commenter suggested that an expedited review process be available in order that business opportunities would not be lost by the application and review process. Credit unions are welcome to bring such considerations to the NCUA Board's attention in the application, which the Board will then attempt to make every reasonable effort to consider.

Two commenters requested that the authority to approve applications be delegated to NCUA staff. One commenter preferred the Director of Examination and Insurance while the other preferred the Regional Directors. Since the number of applications is estimated to be quite small, the NCUA Board has decided to postpone any

decision regarding delegation at this time.

As noted in the Supplementary Information section of the proposed regulation, NCUA does not intend to change field of membership policy or requirements by virtue of this regulation. In addition, as in the proposed rule, §§ 741.3 and 741.4 are combined in the final rule as § 741.3 with no substantive changes. The sections are combined so a new § 741.4 can be added without renumbering all subsequent sections of part 741.

c. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). Based on information received by the NCUA, few credit unions of any size will be affected by the final rule. In the most active state NCUA has knowledge of, only four transactions that would be covered by the proposed rule have occurred in two years. Various Regional Offices of the NCUA have reported interest, but no activity, on the part of NCUSIF-insured credit unions for transactions that would be subject to the rule. The Resolution Trust Corporation has informed the NCUA that it is unaware of any transactions involving NCUSIF-insured credit unions. Accordingly, the Board determines and certifies that this proposed rule does not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The Paperwork Reduction Act requirements do not apply to information collection requests submitted to nine or fewer persons. The information we have at present, including comments to the proposed rule, indicates that very few applications will be received by the Board. One commenter stated that if purchases of member loans were exempted from coverage of the rule that nine or fewer applications would be received each year. This change is adopted by NCUA in the final rule. NCUA, at this time, expects no more than nine applications per year. Therefore, the Board has determined that the requirements of the Paperwork Reduction Act do not apply to the final rule.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The authority of the NCUA to regulate NCUSIF-insured credit unions under the above-referenced sections of the Federal Credit Union Act is clear. Furthermore, the protection of NCUSIF-insured institutions and the NCUSIF itself are concerns of national scope.

Comments were solicited on the potential use of delegated authority, cooperative decisionmaking responsibilities, certification processes of federal standards, adoption of comparable programs by states requesting an exemption for their regulated institutions, or other ways of meeting the intent of the Executive Order. One commenter suggested allowing the state regulator to determine the permissibility of transactions entered into by FISCUs. The NCUA Board disagrees with this approach, as it permits no participation in the decision by the NCUA and the transactions involve potential risk to the NCUSIF. No other comments were received. In light of this, and the small number of applications expected, the NCUA Board determines that the final 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. However, in considering applications from state-chartered NCUSIF insured credit unions, the NCUA Board will lend substantial weight to recommendations from state regulators.

List of Subjects*12 CFR Part 701*

Credit, Credit unions, Insurance, Reporting and recordkeeping requirements.

12 CFR Part 741

Bank deposit insurance, Credit unions, and Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 18, 1991.

Becky Baker,
Secretary to the Board.

For the reasons set forth in the preamble, 12 CFR parts 701 and 741 are amended as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789 and Public Law 101-73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1861 and 42 U.S.C. 3601-3610.

2. In § 701.23, paragraph (b)(2) is revised to read as follows:

§ 701.23 Purchase, sale, and pledge of eligible obligations.

* * * * *

(b) * * *

(2) A Federal credit union may make purchases in accordance with this paragraph (b), provided:

(i) The board of directors or investment committee approves the purchase;

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the purchasers office; and

(iii) For purchases under paragraph (b)(1)(ii) of this section, any advance written approval required by § 741.4 of this chapter is obtained before consummation of such purchase.

* * * * *

PART 741—REQUIREMENTS FOR INSURANCE

The authority citation for part 741 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1766, and 1781-1790. Section 741.11 is also authorized by 31 U.S.C. 3717.

2. Section 741.3 is revised to read as follows:

§ 741.3 Minimum loan policy and appraisal requirements.

Any credit union which is insured pursuant to title II of the Act must:

(a) Adhere to the requirements stated in § 701.21(h) of this chapter concerning member business loans, § 701.21(c)(8) of this chapter concerning prohibited fees, and § 701.21(d)(5) of this chapter concerning nonpreferential loans. State-chartered, NCUSIF-insured credit unions in a given state are exempt from these requirements if the state regulatory authority for that state adopts substantially equivalent regulations as determined by the NCUA Board. In nonexempt states, all required NCUA reviews and approvals will be handled in coordination with the state credit union supervisory authority; and

(b) Adhere to the requirements stated in part 722 of this chapter concerning appraisals.

3. Section 741.4 is revised to read as follows:

§ 741.4 Purchase of assets and assumption of liabilities.

(a) Any credit union insured pursuant to title II of the Act must apply for and receive approval from the NCUA Board before either purchasing or acquiring loans or assuming or receiving an assignment of deposits, shares or liabilities from:

(1) Any credit union that is not insured pursuant to title II of the Act,

(2) Any other financial-type institution (including depository institutions, mortgage banks, consumer finance companies, insurance companies, loan brokers and other loan sellers or liability traders), or

(3) Any successor in interest to any institution identified in paragraphs (a) or (b) of this section.

(b) Approval is not required for:

(1) Purchases of student loans or real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market under § 701.23(b)(1)(iii) or (iv) of this chapter or comparable state law for state-chartered credit unions, or purchases of member loans under § 701.23(b)(1)(i) of this chapter or comparable state law for state-chartered credit unions; or

(2) assumptions or receipt of deposits, shares or liabilities as rollovers or transfers of member retirement accounts or in which an NCUSIF-insured credit union perfects a security interest in connection with an extension of credit to any member.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**14 CFR Part 1204****Administrative Authority and Policy**

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR part 1204 by revising subpart 14, "Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government." This revision updates the procedures and regulations needed to provide for the orderly and controlled use of NASA research facilities that have limited availability for aircraft owned and operated by and for private citizens or companies. This revision also reflects changes at the Wallops Flight Facility; hours of operations; and the facilities available. This rule also