

union that has received a revocation and wishes to appeal to the Board must submit its appeal within 30 days of the revocation letter.

Three commenters believe that the state regulator should have unilateral authority to approve and revoke foreign branch activity. One commenter wondered how coordination with the state regulator would occur in the event the state regulator wishes to revoke approval of the branch office. The NCUA Board wishes to clarify that if a state regulator wishes to revoke approval of a foreign branch, NCUA's concurrence is not necessary. The Board, however, has added a sentence to the rule requiring the state regulator to notify NCUA after it issues a notice of revocation.

The NCUA Board decided not to propose any field of membership restrictions on the foreign branch or capital requirements above those required by NCUA's prompt corrective action rule. 12 CFR part 702. Three commenters agreed with the Board's decision not to propose field of membership restrictions or impose additional capital requirements for credit unions that want to branch in foreign countries. One commenter requested that the final rule address how a credit union can expand its field of membership in the foreign country. A federal credit union can expand its field of membership in the manner set forth in NCUA's Chartering and Field of Membership Manual. A state chartered credit union should look to applicable state law.

The Board clarified in the proposal that a representation office or a liaison office is not a branch office for purposes of this regulation. NCUA's understanding is that such offices do not engage in processing loan applications and do not disburse loans. Rather loan documents are transferred from the liaison office to the credit union's main office in the United States where loan decisions are made and loan disbursements are made in U.S. dollars. Two commenters appreciated and supported this clarification. The Board concurs with the commenter who stated that an ATM is not a branch for purposes of this rule.

On the issue of insurance, the NCUA Board stated that if there are no changes to NCUA's insurance regulation, a federally insured credit union that opens a branch office outside the United States would have its member share accounts at that branch federally insured. The NCUA Board also stated that the credit union's business plan would be required to address the insured status of member accounts and,

in any event, accounts would be insured by the NCUSIF only if denominated in U.S. dollars and only if payable, by the term of the account agreement, at a U.S. office of the credit union. If the host country requires insurance from its own system, accounts would not be insured by the NCUSIF. The NCUA Board also requested specific comment on the insurance issue.

Ten commenters agreed with NCUA's view on insurance coverage. Two of these commenters believe the proposal mitigates the additional risk to the NCUSIF that accompany foreign branch activity. One commenter believes that insuring accounts in branches that are not located either on military installations or U.S. embassies is entirely inappropriate.

One commenter does not believe the NCUSIF should cover foreign branch deposits unless that is part of an agreement between the two countries' regulatory and insurance authorities. One commenter stated that NCUA should insure deposits up to the U.S. limit except in those countries where the NCUA has specifically negotiated other arrangements with the foreign government. One commenter believes NCUSIF coverage should be mandatory for accounts opened at the foreign branch of a federally-insured credit union but believes that NCUSIF coverage should only be secondary if the foreign branch also carries foreign share insurance.

The NCUA Board believes that the proposed insurance treatment of foreign branches is reasonable, mitigates risks, and provides credit unions with significant flexibility.

Therefore, to receive NCUA's approval for a foreign branch, a credit union must address in its business plan how accounts will be insured and agree that accounts would be insured by the NCUSIF only if denominated in U.S. dollars and only if payable, by the terms of the account agreement, at a U.S. office of the credit union. If the host country requires insurance from its own system, accounts will not be insured by the NCUSIF. To avoid any confusion on this issue the NCUA Board is adding a section (e) to the rule to address insurance treatment at foreign branches.

Miscellaneous

One commenter encouraged the Board to amend Part 703 to allow additional investment tools to hedge currency risk via derivative instruments. Proposed revisions to Part 703 have been issued for comment and the NCUA Board will consider such recommended changes in the context of finalizing that rule. One commenter thought the phrase "take

action" in § 741.11(a) was ambiguous and should be rephrased. Although the Board did not find the phrase ambiguous, it changed the term to "approve or deny" to avoid any confusion.

Four commenters stated that credit unions with foreign branches should pay for any additional cost NCUA or NCUSIF might incur in examining their foreign branches. A few commenters believe that NCUA should mandate that its examiners routinely inspect the foreign branches at the expense of the credit unions with those branches. Two commenters asked for more clarification on how NCUA will carry out its regular examination functions of a credit union branch located in a foreign country. At this time, the NCUA Board is not planning on imposing any additional fees on credit unions with foreign branches and is not planning on any significant changes in the examination process. NCUA will continue to monitor the establishment of foreign branches and will revisit both issues after gaining some experience with this activity.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any final regulation may have on a substantial number of small entities (those under one million dollars in assets). The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the Board believes it is very unlikely that small credit unions have the financial capability and experience to establish a branch in a foreign country. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The paperwork requirements in § 741.11 have been submitted to the Office of Management and Budget. NCUA will publish the OMB control number as soon as it is issued. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless NCUA displays a valid OMB number. The control number will be displayed in the table at 12 CFR part 795.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on