

state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The executive order states that: "National action limiting the policymaking discretion of the states shall be taken only where there is constitutional and statutory authority for the action and the national activity is appropriate in light of the presence of a problem of national significance." The risk of loss to federally insured credit unions and the NCUSIF caused by the establishment of foreign branches is a concern of national scope. The final rule helps assure that proper safeguards are in place to ensure the safety and soundness of federally insured credit unions that establish branches in foreign countries.

The final rule applies to all federally insured credit unions. NCUA believes that the protection of those credit unions, and ultimately the NCUSIF, warrants application of the final rule to all federally insured credit unions. The final rule does not impose additional costs or burdens on the states or affect the states' ability to discharge traditional state government functions. NCUA has determined that this rule may have an occasional 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. The potential risk to the NCUSIF without the rule justifies this action.

*The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

*Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this is not a major rule.

**List of Subjects in 12 CFR Part 741**

Bank deposit insurance, Credit unions.

By the National Credit Union Administration Board on April 24, 2003.

**Becky Baker,**

*Secretary of the Board.*

■ For the reasons set forth in the preamble, the National Credit Union Administration amends 12 CFR part 741 as follows:

**PART 741—REQUIREMENTS FOR INSURANCE**

■ 1. The authority citation for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766(a), and 1781-1790; Pub. L. 101-73.

■ 2. Add §741.11 to subpart A to read as follows:

**§ 741.11 Foreign branching.**

(a) *Application and Prior NCUA Approval Required.* Any credit union insured under Title II of the Act must apply for and receive approval from the regional director before establishing a credit union branch outside the United States unless the foreign branch is located on a United States military installation or embassy outside the United States. The regional director will have 60 days to approve or deny the request.

(b) *Contents of Application.* The application must include a business plan, written approval by the state supervisory agency if the applicant is a state-chartered credit union, and documentation evidencing written permission from the host country to establish the branch that explicitly recognizes NCUA's authority to examine and take any enforcement action, including conservatorship and liquidation actions.

(c) *Contents of Business Plan.* The written business plan must address the following:

- (1) Analysis of market conditions in the area where the branch is to be established;
- (2) The credit union's plan for addressing foreign currency risk;
- (3) Operating facilities, including office space/equipment and supplies;
- (4) Safeguarding of assets, bond coverage, insurance coverage, and records preservation;
- (5) Written policies regarding the branch (shares, lending, capital, charge-offs, collections);
- (6) The field of membership or portion of the field of membership to be served through the foreign branch and the financial needs of the members to be served and services and products to be provided;

(7) Detailed *pro forma* financial statements for branch operations (balance sheet and income and expense projections) for the first and second year including assumptions;

(8) Internal controls including cash disbursement procedures for shares and loans at the branch;

(9) Accounting procedures used to identify branch activity and performance; and

(10) Foreign income taxation and employment law.

(d) *Revocation of Approval.* A state regulator that revokes approval of the branch office must notify NCUA of the action once it issues the notice of revocation. The regional director may revoke approval of the branch office for failure to follow the business plan in a material respect or for substantive and documented safety and soundness reasons. If the regional director revokes the approval, the credit union will have six months from the date of the revocation letter to terminate the operations of the branch. The credit union can appeal this revocation directly to the NCUA Board within 30 days of the date of the revocation letter.

(e) *Insurance Coverage.* Accounts at foreign branches are 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 National Credit Union Share Insurance Fund.

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 199**

**RIN 0720-AA66**

**TRICARE Program; Eligibility and Payment Procedures for Civilian Health and Medical Program of the Uniformed Services Beneficiaries Age 65 and Over**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. Section 712 extends TRICARE eligibility to beneficiaries age 65 and over who would otherwise have lost their TRICARE eligibility due to attainment of entitlement to hospital