

are eligible to run for election. The Board believes this issue can be addressed through the request and approval of a nonstandard bylaw amendment if it is of particular concern to an individual corporate.

Article VIII—Board of Directors, Executive Committee, Asset/Liability Management Committee (ALCO), and Management Staff

Board Officers

Section 1 of this article identifies the titles of the board officers of a corporate. The titles include “executive officer” and “assistant executive officer”. The proposed revision to Article VII, section 4, includes the terms “chair” and “ranking vice-chair” when referring to board officers. Four commenters recommended that the terms be amended in this Article to eliminate confusion in circumstances where corporate credit union presidents are often corporate credit union chief executive officers as well. The Board agrees. Revisions have been made to the applicable sections eliminating confusion relative to board officer titles.

Financial Officer

Section 5 provides that the financial officer is responsible for the management of the corporate unless the board employs a separate management official. A commenter noted that in the FCU Bylaws, it states that “the financial officer manages this credit union *under the control and direction of the board*, unless the board has appointed a management official to act as general manager.” FCU Bylaws, Article VII, section 6 (emphasis added). The commenter explained that the underlined language is missing from NCUA’s proposed revision to the corporate Federal credit union bylaws. Due to the complexity of today’s corporate credit union operations, the commenter is concerned about a board member having the power to also manage the corporate. The commenter strongly recommended that the underlined language from the FCU Bylaws be inserted into this section. It is pertinent to note that in section 6, Manager Other than Financial Officer, the underlined language is included. The Board agrees with the commenter and the underlined phrase will be inserted into section 5.

Manager Other Than Financial Officer

Section 6 of this article allows the board to employ a management official who is not a member of the board. Two commenters are concerned about a corporate board member becoming chief

executive officer of a corporate credit union immediately after stepping down from the board. They believe the bylaws should prohibit this activity because of the potential for conflicts between the board member and the corporate’s remaining management and the potential undue influence that such a board member might exert on the decision to terminate the prior chief executive officer. The commenters suggested NCUA consider a proposed revision prohibiting this activity. They suggested adopting as part of the corporate bylaws a 1991 standard bylaw amendment for natural person FCUs that states “no director may be a paid employee of the credit union for a minimum of 2 years from the date the official terminates his/her position as a director unless the employee position to be filled exists as the result of a death or disability”. Federal Credit Union Standard Bylaw Amendments and Guidelines, October 1991. This provision is not in the current version of the FCU Bylaws for natural person credit unions. The Board considered the comments and concluded that, rather than having this restrictive policy apply to all corporates, this issue should be addressed through the request and approval of a nonstandard bylaw amendment if it is of particular concern to an individual corporate.

Article X—Supervisory Committee

Suspension of Directors, Executive Officers or Credit Committee Members

The commenter suggesting a revision to the timing for notices in current and proposed Article VII, section 8 recommended a corresponding change to section 5 of this article. Section 5 provides that the members of a corporate will decide, at a special meeting held not fewer than 7 nor more than 14 days after the supervisory committee suspends a director, executive officer, or member of the credit committee, whether the director, officer or member will be removed or restored. The commenter believes that the 14-day time frame is far too short to provide adequate notice to members of a special meeting and recommends increasing this time frame to 30 days. The Board is not persuaded by the rationale offered given the current technological alternatives available for providing timely notification. The Board is retaining this section of the bylaws as proposed.

Article XII—Operations Following an Attack on the United States or Catastrophic Occurrence Otherwise Rendering the Corporate Credit Union Inoperable

One commenter recommended deleting this provision of the bylaws to mirror the deletion made to the FCU Bylaws for natural person credit unions in October 1999. Another commenter, a trade association, remarked that its members do not believe this provision should be a bylaw topic. Both commenters believe contingency planning efforts are better left as an operational and supervisory issue rather than in a bylaw. The Board considered the comments but believes that this issue is of sufficient importance to warrant its inclusion in the bylaws. The Board is retaining this revision as proposed.

One commenter supported the addition of the “catastrophic occurrence or contingency situation” since they see that type of occurrence to be more likely to cause serious disruption of services than an attack on the United States. Another commenter, a trade association supported NCUA’s provision regarding contingency planning in the event of attack on the United States or other catastrophic event. These sections are retained as proposed.

Contingency Plan

One commenter specifically disagreed with the addition of the (third) new section that requires the corporate credit union to maintain and periodically test an organization-wide contingency plan. The corporate believes this requirement is an operational matter that is adequately addressed in § 704.4(a) and (b) of the regulations. 12 CFR 704.4(a) and (b). The Board believes that this issue is of sufficient importance to warrant its inclusion in the bylaws. The Board is retaining this revision as proposed.

Indemnification

Four commenters suggested addressing indemnification in the bylaws. While this issue is addressed in section 701.33(c) of the NCUA Rules and Regulations, two corporates commenting on this issue had adopted an indemnification (nonstandard bylaw amendment) provision in their bylaws. The corporates’ rationale for adopting an indemnification bylaw was to guard against the possibility that, after a dispute at the corporate that led to the departure of directors or other indemnified officials, a subsequent board of directors might try to eliminate the indemnification rights of the