

List of Subjects in 12 CFR Part 701

Credit unions, Mortgages, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on June 26, 2003.

Becky Baker,

Secretary of the Board.

For the reasons stated above, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS 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 P.L. 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. Section 701.22 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 701.22 Loan participation.

(a) * * *

(4) *Credit union organization* means any credit union service organization meeting the requirements of part 712 of this chapter. This term does not include trade associations or membership organizations principally composed of credit unions.

(5) *Financial organization* means: (i) Any federally chartered or federally insured financial institution; and

(ii) Any state or federal government agency and their subdivisions.

* * * * *

[FR Doc. 03-16793 Filed 7-2-03; 8:45 am]

BILLING CODE 7535-01-P

NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Part 745****Share Insurance and Appendix**

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: NCUA proposes to amend its share insurance rules. The amendments simplify and clarify these rules and provide parity with the deposit insurance rules of the Federal Deposit Insurance Corporation (FDIC). Specifically, the amendments: clarify how revocable trust accounts are established and insured; provide continuation of coverage following the

death of a member and for separate coverage after the merger of insured credit unions for limited periods of time; and clarify that there is coverage for Coverdell Education Savings Accounts, formerly Education IRAs.

DATES: Comments must be received on or before September 2, 2003.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. You are encouraged to fax comments to (703) 518-6319 or email comments to regcomments@ncua.gov instead of mailing or hand-delivering them. Whatever method you choose, *please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:**A. Background**

In accordance with NCUA's regulatory review process, NCUA staff has identified part 745 as a regulation in need of updating, clarification and simplification. To that end, NCUA is proposing the below amendments to improve part 745 and to maintain parity between the separate federal insurance programs administered by NCUA and FDIC.

B. Proposed Amendments*Revocable Trust Accounts*

A revocable trust account is a testamentary account that evidences the owner's intent to have funds in the account pass to named beneficiaries upon the owner's death. NCUA is increasingly receiving inquiries from credit unions and credit union members regarding three aspects of revocable trust accounts. Specifically, these inquiries concern how: (1) Revocable trusts are created; (2) an owner demonstrates testamentary intent; and (3) the interests of nonqualifying beneficiaries are treated.

Unlike more complicated trusts such as living trusts, which require formal, often complex, written trust documents, simple revocable trusts can be created at the credit union merely by indicating that intent in the title to an account. Common terms used in the account title to create a revocable trust and indicate the owner's intent include "payable on death", "in trust for", and "as trustee for", or acronyms for these phrases, respectively, POD, ITF and ATF. For example, the account title "John Smith

POD to Mary Smith" is sufficient to create a revocable trust account. Although not preferable, the account title "John Smith POD" is also sufficient to create a revocable trust account. To be insurable as a revocable trust account, however, the beneficiaries must be specifically named in the credit union's account records. NCUA believes that naming the beneficiaries in the account title is the most effective way of establishing insurance coverage.

NCUA's share insurance rules provide that an owner's funds in a revocable trust account are separately insured up to \$100,000 for each qualifying beneficiary named in the account. 12 CFR 745.4. A qualifying beneficiary is the owner's spouse, child, grandchild, parent, brother or sister. *Id.* All others are nonqualifying beneficiaries.

NCUA treats the interests of nonqualifying beneficiaries named in the revocable trust account as the individually owned funds of the owner of the account. In this context, these funds would be aggregated with all other individual accounts of the owner and insured up to \$100,000. The current language of § 745.4(c) could be read as providing that these nonqualifying beneficiary interests will only be insured as the individually owned funds of the owner if the owner has actually opened an individual account in the insured credit union where the revocable trust account is held. 12 CFR 745.4(c). NCUA proposes to revise that section to make clear that it will treat nonqualifying beneficiary interests as the individually owned funds of the owner even where the owner has not actually opened an individual account at the credit union. This is consistent with FDIC's treatment of these funds.

Insurance Coverage Following the Death of a Member

The death of a member results in an immediate change in the ownership of the member's share accounts. This change in ownership could significantly change the amount of share insurance coverage available for those accounts, most likely reducing coverage.

For example, a husband and wife may hold a joint account, a joint revocable trust account for the benefit of their two children, and two individual accounts in their own names. Assuming these accounts satisfy all applicable requirements, these four accounts would be insured up to a maximum of \$800,000. The \$800,000 is broken down as follows: \$200,000 for the joint account; \$400,000 for the joint revocable trust account; and \$100,000 for each of the two individual accounts. Upon the death of either the husband or wife,