

to pay or perform an obligation to a third person. Under a *guaranty* agreement, a Federal credit union agrees to satisfy the obligation of the principal only if the principal fails to pay or perform. The *principal* is the person primarily liable, for whose performance of his obligation the surety or guarantor has become bound.

(c) *Requirements.* The suretyship or guaranty agreement must be for the benefit of a principal that is a member and is subject to the following conditions:

(1) The Federal credit union limits its obligations under the agreement to a fixed dollar amount and a specified duration;

(2) The Federal credit union's performance under the agreement creates an authorized loan that complies with the applicable lending regulations, including the limitations on loans to one member or associated members or officials for purposes of §§ 701.21(c)(5), (d); 723.2 and 723.8; and

(3) The Federal credit union obtains a segregated deposit from the member that is sufficient in amount to cover the Federal credit union's total potential liability.

(d) *Collateral.* A segregated deposit under this section includes collateral:

(1) In which the Federal credit union has perfected its security interest (for example, if the collateral is a printed security, the Federal credit union must have obtained physical control of the security, and, if the collateral is a book entry security, the Federal credit union must have properly recorded its security interest); and

(2) That has a market value, at the close of each business day, equal to 100 percent of the Federal credit union's total potential liability and is composed of:

- (i) Cash;
- (ii) Obligations of the United States or its agencies;
- (iii) Obligations fully guaranteed by the United States or its agencies as to principal and interest; or
- (iv) Notes, drafts, or bills of exchange or banker's acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

(3) That has a market value equal to 110 percent of the Federal credit union's total potential liability and is composed of:

(i) Real estate, the value of which is established by a signed appraisal or evaluation in accordance with part 722 of this chapter. In determining the value of the collateral, the Federal credit union must factor in the value of any existing senior mortgages, liens or other encumbrances on the property except

those held by the principal to the suretyship or guaranty agreement; or

(ii) Marketable securities that the Federal credit union is authorized to invest in. The Federal credit union must ensure that the value of the security is 110 percent of the obligation at all times during the term of the agreement.

## PART 741—REQUIREMENTS FOR INSURANCE

3. 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.

4. Amend § 741.2 by designating the existing paragraph as (a) and adding new paragraphs (b), (c) and (d) to read as follows:

### § 741.2 Maximum borrowing authority.

(a) \* \* \*

(b) A federally insured State-chartered credit union may apply to the regional director for a waiver of paragraph (a) of this section up to the amount permitted under the applicable State law or by the State regulator. The waiver request must include:

(1) Written approval from the State regulator;

(2) A detailed analysis of the safety and soundness implications of the proposed waiver;

(3) A proposed aggregate dollar amount or percentage of paid-in and unimpaired capital and surplus limitation; and

(4) An explanation demonstrating the need to raise the limit.

(c) The regional director will approve the waiver request if the proposed borrowing limit will not adversely affect the safety and soundness of the federally insured State-chartered credit union.

5. Add new § 741.221 to read as follows:

### § 741.221 Suretyship and guaranty requirements.

Any credit union, which is insured pursuant to Title II of the Act, must adhere to the requirements in § 701.20 of this chapter. State-chartered, NCUSIF-insured credit unions may only enter into suretyship and guaranty agreements to the extent authorized under State law.

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## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 708a

### Conversion of Insured Credit Unions to Mutual Savings Banks

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** NCUA proposes to update its rule regarding conversion of insured credit unions to mutual savings banks. This proposal, seeking to accomplish full disclosure and transparency, would require a converting credit union to provide additional information in the notice to members of its intent to convert. Specifically, the credit union would have to disclose any economic benefit a director or senior management official of a converting credit union may receive in connection with the conversion. The proposal also would require the converting credit union to disclose that conversion to a mutual savings bank could lead to members having diminished voting rights and losing their ownership interests in the credit union if the mutual savings bank subsequently converted to a stock institution and the members do not become stockholders. NCUA believes this proposal would enhance a member's ability to make informed decisions about the conversion without increasing the regulatory burden for converting credit unions and would help converting credit unions to more fully understand what NCUA expects to be included in the notice to members.

**DATES:** Comments must be received on or before December 1, 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 e-mail comments to [regcomments@ncua.gov](mailto: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 S. Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540.

### SUPPLEMENTARY INFORMATION:

#### Background

The Credit Union Membership Access Act (CUMAA) was enacted into law on August 7, 1998. Pub. L. 105–21. Section 202 of CUMAA amended the provisions