Banks and Banking

12

PARTS 300 TO 499
Revised as of January 1, 1985
CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT
AS OF JANUARY 1, 1985

With Ancillaries

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CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>300-302 [Reserved]</td>
<td></td>
</tr>
<tr>
<td>303</td>
<td>Applications, requests, submittals, delegations of authority, and notices of acquisition of control</td>
</tr>
<tr>
<td>304</td>
<td>Forms, instructions, and reports</td>
</tr>
<tr>
<td>305-306 [Reserved]</td>
<td></td>
</tr>
<tr>
<td>307</td>
<td>Notification of changes of insured status</td>
</tr>
<tr>
<td>308</td>
<td>Rules of practice and procedures</td>
</tr>
<tr>
<td>309</td>
<td>Disclosure of information</td>
</tr>
<tr>
<td>310</td>
<td>Safeguarding personal information in Federal Deposit Insurance Corporation records</td>
</tr>
<tr>
<td>311</td>
<td>Rules governing public observation of meetings of the Corporation's Board of Directors</td>
</tr>
</tbody>
</table>

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>326</td>
<td>Minimum security devices and procedures for insured nonmember banks</td>
</tr>
<tr>
<td>327</td>
<td>Assessments</td>
</tr>
<tr>
<td>328</td>
<td>Advertisement of membership</td>
</tr>
<tr>
<td>329</td>
<td>Interest on deposits</td>
</tr>
<tr>
<td>330</td>
<td>Clarification and definition of deposit insurance coverage</td>
</tr>
<tr>
<td>331</td>
<td>Insurance of trust funds</td>
</tr>
<tr>
<td>332</td>
<td>Powers inconsistent with purposes of Federal deposit insurance law</td>
</tr>
<tr>
<td>333</td>
<td>Extension of corporate powers</td>
</tr>
<tr>
<td>334 [Reserved]</td>
<td></td>
</tr>
<tr>
<td>335</td>
<td>Securities of nonmember insured banks</td>
</tr>
<tr>
<td>336</td>
<td>Employee responsibilities and conduct</td>
</tr>
<tr>
<td>337</td>
<td>Unsafe and unsound banking practices</td>
</tr>
<tr>
<td>338</td>
<td>Fair housing</td>
</tr>
<tr>
<td>339</td>
<td>Loans in areas having special flood hazards</td>
</tr>
<tr>
<td>340 [Reserved]</td>
<td></td>
</tr>
<tr>
<td>341</td>
<td>Registration of securities transfer agents</td>
</tr>
</tbody>
</table>
### 12 CFR Ch. III (1-1-85 Edition)

#### Federal Deposit Insurance Corporation

**SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE**

**PART 303—APPLICATIONS, REQUESTS, SUBMISSIONS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL**

<table>
<thead>
<tr>
<th>Sec</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>301</td>
<td>Application by nonmember bank for deposit insurance</td>
</tr>
<tr>
<td>302</td>
<td>Application by insured State nonmember bank to establish a branch or move its main office or branch.</td>
</tr>
<tr>
<td>(Reserved)</td>
<td></td>
</tr>
<tr>
<td>303</td>
<td>Application by insured State nonmember bank to reduce or retire capital or surplus.</td>
</tr>
<tr>
<td>304</td>
<td>Application for conversion, merger, consolidation, assumption and sale of asset transactions.</td>
</tr>
<tr>
<td>305</td>
<td>Application by insured State nonmember bank to extend its corporate or charter powers.</td>
</tr>
<tr>
<td>306</td>
<td>Application to continue or resume insured status.</td>
</tr>
<tr>
<td>307</td>
<td>Application for exemption from or exception to advertising requirements.</td>
</tr>
<tr>
<td>308</td>
<td>Other applications.</td>
</tr>
<tr>
<td>309</td>
<td>Procedure on applications.</td>
</tr>
<tr>
<td>310</td>
<td>Delegation of authority to act on certain applications and on notices of acquisition of control.</td>
</tr>
<tr>
<td>311</td>
<td>Applications where authority is not delegated.</td>
</tr>
<tr>
<td>312</td>
<td>Other delegations of authority.</td>
</tr>
<tr>
<td>313</td>
<td>Application procedures.</td>
</tr>
<tr>
<td>314</td>
<td>Change in bank control.</td>
</tr>
</tbody>
</table>

**PART 304—APPLICATIONS, REQUESTS, SUBMISSIONS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL**

1. Application by nonmember bank for deposit insurance.

   Application for deposit insurance by an existing or proposed State nonmember bank should be filed with the Regional Director of the Federal Deposit Insurance Corporation Region in which the bank or proposed bank is or will be located. Any such application by an existing bank must be accompanied by separate applications for the consent of the Corporation to the continued operation of each branch which it proposes to continue to operate. Any such application by a proposed bank must be accompanied by a separate application for the consent of the Corporation to establish and operate each proposed branch. The appropriate forms of application and instructions for completing the same may be obtained upon request from the Regional Director of the Region in which the application originates. (See Part 304 of this title for list of forms and instructions.)


2. Application by insured State nonmember bank to establish a branch or move its main office or branch.

   (a) Application by an insured State nonmember bank (except a District bank) to establish and operate a new branch (including a remote service facility) or to move its main office or branch should be filed with the regional director of the Federal Deposit Insurance Corporation region in which the bank is located. The application shall be mailed or delivered to the regional director on the date on which the notice required in § 303.14(b)(1) is published or not more than 30 days subsequent to the first required publi-
12 CFR Ch. III (1-1-85 Edition)

§ 330.0 Definition


§ 330.1 General principles applicable in determining insurance of deposit accounts.

(a) General. This section provides for determination by the Corporation of the insured depositories of insured deposits and the amount of their insured deposit accounts. The rules for determining the insurance coverage of deposit accounts maintained by depositors in the same or different states and territories are based on the insured deposit account rules set forth in the following provisions of this part. For purposes of this section, "depository" means an entity that accepts deposits from the public for the purpose of earning interest on those deposits. "Deposit account" means an account in which a depositor has the right to demand payment of funds on demand or at a future date on demand. "Cash" means currency, checks, drafts, and similar items that are readily negotiable and are payable on demand. "Insured deposit" means a deposit that is eligible for insurance by the Corporation and is included in the amount of deposits of the depository.

(b) Requirements for insured deposit. Deposits held by a depository that are eligible for insurance by the Corporation and are included in the amount of deposits of the depository must meet certain requirements, including:

(1) The insured depository must establish a trust relationship with the Corporation, and the insured depository must agree to the trust relationship in writing.

(2) The insured depository must maintain a record of all insured deposit accounts that it holds, including the name and address of the depositor and the amount of each insured deposit account.

(3) The insured depository must provide the Corporation with a copy of its most recent annual report, including a list of all insured deposit accounts that it holds.

(4) The insured depository must provide the Corporation with any other information that the Corporation may request in order to verify the accuracy of the information provided in the annual report.

§ 330.2 Single ownership accounts.

Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to $100,000 in the aggregate.

(a) Individual accounts. Funds owned by an individual (or by the community between husband and wife of which the individual is a member) are considered as a single ownership account. In determining the amount of deposit insurance, these accounts shall be added together and insured up to $100,000 in the aggregate.
§ 330.3 Accounts held by agents or nominees. Funds owned by a principal and deposited in one or more deposit accounts in the name of agents or nominees shall be added to any individual deposit accounts of the principal and insured up to $100,000 in the aggregate.

§ 330.5 Accounts held by a corporation or partnership. (a) Deposit accounts of a corporation or partnership engaged in any independent activity shall be insured up to $100,000 in the aggregate. A deposit account of a corporation or partnership engaged in an independent activity shall be deemed to be owned by the persons comprising such association and for deposit insurance purposes, the interest of each owner in such a deposit account shall be added to any other deposit accounts individually owned by such person and insured up to $100,000 in the aggregate.

§ 330.8 Public unit accounts. (a) Each official custodian of funds of the United States depositing the same in time or savings deposits in an insured bank shall be separately insured up to $100,000 as to such deposits. Each such official custodian depositing such funds in a demand deposit shall be separately insured up to $100,000.

§ 330.9 Joint accounts. (a) Separate insurance coverage. Deposits owned jointly, whether as joint tenants with right of survivorship, as tenants in common, or by husband and wife as community property, shall be insured separately from deposit accounts individually owned by the owners.

(b) Qualifying joint accounts. A joint deposit account shall be deemed to exist, for purposes of insurance of accounts, if each owner has personally executed a deposit account, signature card and possesses withdrawal rights. The restrictions of this paragraph shall not apply to coowners of a time certificate of deposit or to...
§ 330.10 Any deposit obligation evidenced by a negotiable instrument, but such a deposit must in fact be jointly owned.

(c) Failure to qualify. A deposit account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals. In the actual ownership any interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

(d) Same combination of individuals. All joint deposit accounts owned by the same combination of individuals shall first be added together and insured up to $100,000 in the aggregate.

(e) Interest of each coowner. The interest of each coowner in all joint deposit accounts owned by different combinations of individuals shall then be added together and insured up to $100,000 in the aggregate.

§ 330.11 Deposits evidenced by negotiable instruments.

If any insured deposit obligation of a bank be evidenced by a negotiable certificate of deposit, negotiable draft, negotiable cashier’s or officer’s check, negotiable certified check, or negotiable traveler’s check or letter of credit, the owner of such deposit obligation will be recognized for all purposes as the owner of the certificate of deposit, payable to order, or payable on demand, or the owner of the fund, if the certificate of deposit is a check or the instrument was in fact negotiated to such owner prior to the date of the closing of the bank. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

§ 330.12 Deposit obligations for payment of items forwarded by bank acting as agent.

Where a closed bank has become obligated for payment of items forwarded by the bank acting solely as agent, the owner of such items will be recognized for all purposes as the owner of the fund, to the same extent as if his name and interest were disclosed on the records of the bank when such items were forwarded to the bank for collection and handled as such. Such bank acting as agent for the owner of such items is required to make such payment to the Federal Deposit Insurance Corporation and for the purpose of receiving payment on behalf of such owner.

§ 330.15 Amount of insured deposit.

(a) For those depository institutions where earnings on any savings deposits are calculated on the basis of the amount of insured deposits, as set forth in section 13 of the Federal Deposit Insurance Act, the contract rate, without regard to whether such deposit is subject to any pledge or other security, the amount of such deposits shall be the principal amount which the insured deposit holder would have been entitled to withdraw as of the date of default of the institution, plus the earnings on the deposit accrued to such date at the anticipated or announced rate, without regard to whether such deposit is subject to any pledge. In the absence of an announced or stated anticipated rate, such rate for savings deposits shall be the rate paid in the immediately preceding payment period.

(b) If the deposit was held in a custodial capacity, such rate for savings deposits shall be the rate paid in the immediately preceding payment period.

(c) With respect to certificates of deposit sold at a discount from their face value, and for which there is no stated rate of interest, the value of the certificate shall be the original purchase price plus the amount of accrued earnings calculated by compounding interest annually at the rate necessary to increase the original purchase price to the maturity value over the life of the certificate.

(d) For all insured banks, where there is a time deposit with a fixed or minimum maturity period which has not expired as of the date the bank is closed, the closure date shall be extended to the maturity date, except as provided in section 13 of the Federal Deposit Insurance Act, as amended, the vested and ascertainable interest (excluding any remainder interest) of each beneficial owner in a time or savings deposit established under either of the above sections shall be added together and insured to an additional $100,000 maximum for each beneficial owner, notwithstanding the insurance provided in this section to other types of deposits, if any. The insurance of such trust interests shall be separate from that afforded deposit accounts of the trust or the trustor or beneficiary of such trust arrangement.

§ 331.1 Interpretations.

§ 331.10 Recognition of deposit ownership in custodial accounts.

(a) The opinion of the Board of Directors has been requested as to whether a fractional or percentage computation of the fund balances of commingled funds on deposit in custodial accounts in banks insured by the Federal Deposit Insurance Corporation meets the requirements of § 330.1.

(b) Section 330.1 provides that if the name and interest of an owner of any portion of a specifically designated custodial deposit is disclosed on the records of the owner of the deposit and such records are maintained in good faith and in the regular course of business, such owner will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the bank.

(c) The Board of Directors has concluded that, if the record of the depository, maintained in good faith and in the regular course of business, reflect, at all times, the name and ascertainable interest of the owner of a specifically designated custodial deposit, such interest may be determined on a fractional or percentage basis. Thus may be accomplished in any manner which indicates that where the funds of an owner are commingled with other funds held in custody and a portion thereof is placed on deposit in one or more insured banks, his interest in a custodial deposit in any one insured bank would represent at any given time the same fractional share as his share of the total commingled funds.

PART 331—INSURANCE OF TRUST FUNDS

§ 331.1 Claim by fiduciary bank for uninsured deposits of trust estates.

In the event of the closing of an uninsured bank for inability to meet the demands of its depositors, the claim for uninsured deposits made by a fiduciary bank or trust company which, in the exercise of its trust powers, had
Banks and Banking

PART 500 TO END
Revised as of January 1, 1985

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AND FUTURE EFFECT
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CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER A—GENERAL

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>500</td>
<td>Organization and channelling of functions</td>
</tr>
<tr>
<td>501</td>
<td>Operations</td>
</tr>
<tr>
<td>505</td>
<td>Availability and character of records</td>
</tr>
<tr>
<td>505a</td>
<td>Records maintained on individuals</td>
</tr>
<tr>
<td>505b</td>
<td>Public information regarding meetings of the Federal Home Loan Bank Board</td>
</tr>
<tr>
<td>505c</td>
<td>National security information</td>
</tr>
<tr>
<td>505d</td>
<td>Information collection requirements under the Paperwork Reduction Act</td>
</tr>
<tr>
<td>506</td>
<td>Bonds and debentures</td>
</tr>
<tr>
<td>506a</td>
<td>Book-entry procedure for Federal Home Loan Bank Securities</td>
</tr>
<tr>
<td>507</td>
<td>Hearings</td>
</tr>
<tr>
<td>508</td>
<td>Promulgation of regulations and amendments</td>
</tr>
<tr>
<td>509</td>
<td>Rules of practice and procedure in adjudicatory proceedings</td>
</tr>
<tr>
<td>509a</td>
<td>Removals, suspensions, and prohibitions where a crime is charged or proven</td>
</tr>
<tr>
<td>509b</td>
<td>Implementation of the Equal Access to Justice Act in Board adjudications</td>
</tr>
<tr>
<td>510</td>
<td>Miscellaneous rules</td>
</tr>
<tr>
<td>511</td>
<td>Employee responsibilities and conduct</td>
</tr>
<tr>
<td>512</td>
<td>Rules for investigative proceedings and formal examination proceedings</td>
</tr>
<tr>
<td>513</td>
<td>Practice before the Board</td>
</tr>
</tbody>
</table>

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>521</td>
<td>Definitions</td>
</tr>
<tr>
<td>522</td>
<td>Organization of the banks</td>
</tr>
<tr>
<td>523</td>
<td>Members of banks</td>
</tr>
<tr>
<td>524</td>
<td>Operations of the banks</td>
</tr>
<tr>
<td>525</td>
<td>Advances</td>
</tr>
<tr>
<td>526</td>
<td>Limitations on rate of return</td>
</tr>
<tr>
<td>527</td>
<td>Housing Opportunity Allowance Program</td>
</tr>
<tr>
<td>Part</td>
<td>Title</td>
</tr>
<tr>
<td>------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>528</td>
<td>Nondiscrimination requirements</td>
</tr>
<tr>
<td>529</td>
<td>Nondiscrimination in Federally assisted programs</td>
</tr>
<tr>
<td>531</td>
<td>Statements of policy</td>
</tr>
<tr>
<td>532</td>
<td>Board rulings</td>
</tr>
<tr>
<td>533</td>
<td>Electronic fund transfers</td>
</tr>
<tr>
<td>534</td>
<td>Collection, settlement, and processing of payment instruments</td>
</tr>
<tr>
<td></td>
<td><strong>SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM</strong></td>
</tr>
<tr>
<td>541</td>
<td>Definitions</td>
</tr>
<tr>
<td>542</td>
<td>[Reserved]</td>
</tr>
<tr>
<td>543</td>
<td>Incorporation, organization, and conversion of Federal mutual associations</td>
</tr>
<tr>
<td>544</td>
<td>Charter and bylaws</td>
</tr>
<tr>
<td>545</td>
<td>Operations</td>
</tr>
<tr>
<td>546</td>
<td>Merger, dissolution, reorganization, and conversion</td>
</tr>
<tr>
<td>547</td>
<td>Appointment of conservators and receivers</td>
</tr>
<tr>
<td>548</td>
<td>Powers of conservator and conduct of conservatorships</td>
</tr>
<tr>
<td>549</td>
<td>Powers of receiver and conduct of receivership</td>
</tr>
<tr>
<td>550</td>
<td>Trust powers of Federal associations</td>
</tr>
<tr>
<td>551</td>
<td>Service of process upon Board</td>
</tr>
<tr>
<td>552</td>
<td>Incorporation, organization, and conversion of Federal stock associations</td>
</tr>
<tr>
<td>555</td>
<td>Board rulings</td>
</tr>
<tr>
<td>556</td>
<td>Statements of policy</td>
</tr>
<tr>
<td></td>
<td><strong>SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION</strong></td>
</tr>
<tr>
<td>561</td>
<td>Definitions</td>
</tr>
<tr>
<td>562</td>
<td>Application for insurance of accounts</td>
</tr>
<tr>
<td>563</td>
<td>Operations</td>
</tr>
<tr>
<td>563a</td>
<td>Minimum security devices and procedures</td>
</tr>
<tr>
<td>563b</td>
<td>Conversions from mutual to stock form</td>
</tr>
<tr>
<td>563c</td>
<td>Accounting requirements</td>
</tr>
<tr>
<td>563d</td>
<td>Securities of insured institutions</td>
</tr>
<tr>
<td>563e</td>
<td>Community reinvestment</td>
</tr>
<tr>
<td>563f</td>
<td>Management official interlocks</td>
</tr>
<tr>
<td>564</td>
<td>Settlement of insurance</td>
</tr>
<tr>
<td>565</td>
<td>Termination of insurance</td>
</tr>
<tr>
<td>566</td>
<td>[Reserved]</td>
</tr>
<tr>
<td>567</td>
<td>Amendment of rules and regulations</td>
</tr>
<tr>
<td>568</td>
<td>Service of process upon corporation</td>
</tr>
<tr>
<td>569</td>
<td>Proxies</td>
</tr>
<tr>
<td></td>
<td><strong>SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES</strong></td>
</tr>
<tr>
<td>583</td>
<td>Definitions</td>
</tr>
<tr>
<td>584</td>
<td>Regulated activities</td>
</tr>
<tr>
<td>585</td>
<td>Amendment of regulations; hearings</td>
</tr>
<tr>
<td>588</td>
<td>Statements of policy</td>
</tr>
<tr>
<td>589</td>
<td>Board rulings</td>
</tr>
<tr>
<td></td>
<td><strong>SUBCHAPTER G—PREEMPTION OF STATE LENDING RESTRICTIONS</strong></td>
</tr>
<tr>
<td>590</td>
<td>Preemption of state usury laws</td>
</tr>
<tr>
<td>591</td>
<td>Preemption of state due-on-sale laws</td>
</tr>
</tbody>
</table>
the Clayton Act (15 U.S.C. 18) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate his or her affiliated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation, or establishment of effective common control, was continuously defined as a change in circumstances in 12 CFR 563(f)(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.


(48 FR 5535, Feb. 7, 1983)

§ 563.6 Changes in circumstances

(a) Non-grandfathered interlocks. If a person's service as a management official is not grandfathered under §563.5 of this part, that person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization, expansion to new geographical areas, a change in relevant marketplace statistical area or community boundaries, or the designation of a new relevant marketplace statistical area or community boundaries, or the designation of a new relevant marketplace statistical area or community boundaries.

(b) Grace period. If a person's non-grandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationships until 18 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisor or agency or agencies take affirmative action in an individual case to establish a shorter period.


§ 563.7 Delegation of authority to grant exemptions and extensions of time.

The Office of Examinations and Supervision, with the concurrence of the Office of General Counsel, may grant such extensions of time under §563.6, or extensions of time under §563.7, if the principal supervisory agency or affiliate has delegated approval authority. Exemptions under §563.6(i) of this part, under §563.7, if requested in connection with applications for which the principal supervisory agency has delegated approval authority. Exemptions under §563.6(i) of this part, under §563.7, if requested in connection with applications for which the principal supervisory agency has delegated approval authority. Exemptions under §563.6(i) of this part, under §563.7, if requested in connection with applications for which the principal supervisory agency has delegated approval authority.

Private
disclosure

The Office of Examinations and Supervision, with the concurrence of the Office of General Counsel, may grant such extensions of time under §563.6, or extensions of time under §563.7, if the principal supervisory agency or affiliate has delegated approval authority. Exemptions under §563.6(i) of this part, under §563.7, if requested in connection with applications for which the principal supervisory agency has delegated approval authority. Exemptions under §563.6(i) of this part, under §563.7, if requested in connection with applications for which the principal supervisory agency has delegated approval authority.

Effective April 1, 1990, the Office of Examinations and Supervision, with the concurrence of the Office of General Counsel, may grant such extensions of time under §563.6, or extensions of time under §563.7, if the principal supervisory agency or affiliate has delegated approval authority. Exemptions under §563.6(i) of this part, under §563.7, if requested in connection with applications for which the principal supervisory agency has delegated approval authority. Exemptions under §563.6(i) of this part, under §563.7, if requested in connection with applications for which the principal supervisory agency has delegated approval authority.

Any notice of the time and place of payment of insurance by mail at the last known address as shown by the books of the insured institution.

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution, or otherwise, the insured account and the account contracts and the books and records of the institution.

(b) Amount of insured account. The amount of an insured account is the amount which the insured member would have been entitled to withdraw as of the date of default, plus interest on any unpaid balance accrued to such date or dividends paid on such date at the announced or anticipated rate without regard to whether such account was subject to a pledge or was transferred.

(c) Multiple accounts. If the event an insured member holds more than one insured account in the same capacity, and the aggregate amount of

Federal Home Loan Bank Board

§ 564.1 Settlement of insurance upon default

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution, or otherwise, the insured account and the account contracts and the books and records of the institution.

§ 564.2 General Principles applicable to determining insurance of accounts

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.3 Accounts held by executors or administrators

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.4 Testamentary accounts

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.5 Accounts held by executors or administrators

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.6 Accounts held by a corporation or partnership

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.7 Accounts held by an unincorporated association

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.8 Public unit accounts

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.9 Insurance of deposit accounts

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.10 Trust Accounts and IRA and Keogh Accounts

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.

§ 564.11 FDIC-insured Federal associations.

(a) General. In the event of a default by an insured institution, the Corporation will promptly determine the amount of the insured account and the account contracts and the books and records of the institution.


Editorial Note Sec. "Notice of Order Ending Suspension of Regulations" published at 49 FR 27294, July 3, 1984. For the purpose of this section, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.
such accounts (including checking accounts held in such capacity) exceeds the amount of insurance afforded the holder of the insured account under the applicable law, the holder's coverage will be prorated among the member's interest in all accounts held in the same capacity on the unclaimed funds' withdrawal value as of the date of default. In the case of individual accounts the insurance proceeds shall be paid to the beneficial owner of the accounts, whether or not the beneficial owner.

In the case of accounts which are owned jointly the insurance proceeds shall be paid to the owners jointly. In the case of trust estates the insurance proceeds shall be paid to the indicated trustee unless otherwise provided for in the trust instrument or under State law. In the case of corporations, partnerships, and unincorporated associations, whether or not engaged in an independent activity, the insurance proceeds shall be paid to the indicated holder of the account. Where insurance proceeds is the form of a transferred account, the same rules shall be applied.

(d) Procedure of insurance claims

(1) Definitions of authority

The Director or Acting Director of the Insurance Division of the Office of the Federal Savings and Loan Insurance Corporation ("Director of the Insurance Division") or his or her designee is authorized to give written notice to each insured member of the time and place of settlement of insurance, as required by paragraph (a) of this section, and to make determinations with respect to claims pursuant to the principles set forth in this part. The Director or the Acting Director of the Office of the Federal Savings and Loan Insurance Corporation ("Director") is authorized to reconsider determinations made by the Director of the Insurance Division in connection with the payment of insurance afforded the holder of the insured account under the applicable law.

(2) Determination by the Director of the Insurance Division

In the event the Director of the Insurance Division shall determine that all or a portion of an account holder's account is uninsured, the Director of the Insurance Division shall notify the account holder in writing, stating the reasons for such determination, and shall provide the account holder with a certificate of claim in liquidation, setting forth the amount of the uninsured account from the Corporation, in its capacity as receiver for the insured institution in default, to enable the account holder to share in the proceeds of the liquidation of the institution, if any, up to the amount of the uninsured account. Unless the account holder requests reconsideration of the determination in the manner provided in paragraph (d)(3) of this section, such determination shall be final.

(3) Request for reconsideration

(i) Within 60 days after receipt of a determination by the Director of the Insurance Division that all or a portion of an account holder's account is uninsured, such account holder may obtain reconsideration of the determination by filing with the Director a written request for reconsideration

(ii) Provided, that with respect to a determination of liquidation insurance by the Corporation on accounts in insured institutions in default before September 19, 1981, the 60-day period for requesting reconsideration by the Director shall commence on September 19, 1981.

(iii) Within 30 days of receipt of a request for reconsideration, the Director shall notify the account holder, in writing, whether the request is considered substantial.

(iv) A request will be considered substantial only if the account holder, in writing, states the reasons for the determination. If the Director determines that the account holder is entitled to the amount of insurance claimed or a portion thereof, upon payment of insurance the account holder shall promptly surrender to the Corporation the certificate of claim in liquidation provided to the account holder in connection with the initial determination.

(v) The Corporation shall, from time to time, make available a digest of its final determinations with respect to insurance claims.

Federal Home Loan Bank Board

§ 564.2

General. Section 564.1 of this part provides for determination by the Corporation of insured members of an insured institution and the amount of their insured accounts. The rules for determining the insurance coverage of accounts in the same insured institution are set forth in the following provisions of this part. Insofar as rules of local law enter into such determinations, the law of the jurisdiction in which the insured institution's principal office is located shall govern.

(b) Records

(1) The account records of the insured institution shall be conclusive as to the amount of any relationship pursuant to which the funds in the account holder's account, and on which a claim for insurance coverage is founded. Examples would be trustee, agent, custodian or executor. No claim for insurance based on such a relationship will be recognized in the absence of its disclosure on such records.

(2) If the account records of an insured institution disclose the existence of a relationship which may provide a basis for additional insurance, the details of the relationship and the interests of other parties in the account must be ascertained either from the records of the association or the records of the account holder maintained in good faith and in the regular course of business.

(3) The account records of an insured institution in connection with a trust account shall disclose the name of the settlor (grantor) and the fact that the trust is a trust account of the trustee of the trust and shall contain an account signature card executed by the trustee.

(4) The interests of the co-owners of a joint account shall be deemed equal unless otherwise stated on the insured.
§ 564.3

12 CFR Ch. V (1-1-85 Edition)

institution's records in the case of a tenancy in common.

(5) The foregoing provisions of this paragraph (b) shall not be applicable with respect to any account evidenced by a certificate of deposit which was issued in negotiable instrument form. Affirmative proof must be offered in all cases to substantiate a claim as to the existence of any relationship upon which a claim for insurance coverage is founded.

(c) Valuation of trust interests (1) Trust estates (as defined in § 564.1 of this subchapter) in the same trust invested in the same account will be separately insured if the value of the trust estate is capable of determination, as of the date of default, without evaluation of contingencies except for those covered by the present-worth tables and rules of calculation for their use set forth in § 20.2031-10 of the Federal Estate Tax Regulations (26 CFR 20 2031-10). "Provided, that (r) in addition to the principal and other interest thereon, all cash dividends, common and preferred stock, bonds, notes, and other investments of any kind of the Internal Revenue Code of 1954), the trust estate of each participant shall be evaluated as if the trust were irrevocable and the interest of the participant had fully vested as of the date of default of the insured institution, and (u) any unreceived principal and interest on any participant's account shall be separately insured as of the date of default of the insured institution.

(2) In connection with any trust in which certain trusts are not capable of evaluation in accordance with the foregoing rule, payment by the Corporation and the assignment of such payment to all accounts shall not exceed the basic insured amount of $100,000.

Each trust estate in any trust established by two or more settlors shall be deemed to be derived from each settlor pro rata to his contribution to the trust estate.


§ 564.4 Single ownership accounts.

Funds owned by an individual and invested in the manner set forth below shall be added together and insured up to $100,000 in the aggregate:

(a) Individual accounts Funds owned by an individual (or by the husband-wife community of which the individual is a member) and invested in one or more accounts in his own name shall be insured up to $100,000 in the aggregate.

(b) Accounts held by agents or nominees. (1) Funds owned by a principal and invested in one or more accounts in the name of agent or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(2) A loan servicer who receives loan payments and places or maintains such payments in an insured institution prior to remittance to the lender or other parties entitled to the funds shall, for insurance-of-accounts purposes, be considered an agent of each borrower.

(c) Accounts held by guardians, custodians or conservators. Funds held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and invested in one or more accounts in the name of the guardian, custodian or conservator shall be added to any individual accounts of the ward or minor and insured up to $100,000 in the aggregate.

§ 564.5 Accounts held by executors or administrators.

Funds of a decedent held in the name of the executor or administrator shall be separately insured from the individual accounts of the beneficiaries of the estate or of the executor or administrator.

§ 564.6 Accounts held by a corporation or partnership.

Accounts of a corporation or partnership engaged in any independent activity shall be insured up to $100,000 in the aggregate. An account of a corporation or partnership not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership and, for insurance purposes, the interest of each person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

§ 564.7 Accounts held by unincorporated association.

Accounts of an unincorporated association engaged in any independent activity shall be insured up to $100,000 in the aggregate. An account of an unincorporated association not engaged in an independent activity shall be deemed to be owned by the persons comprising such association and, for insurance purposes, the interest of each owner in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

Federal Home Loan Bank Board.

§ 566.8 Public unit accounts.

(a) Each official custodian of funds of the United States, any State of the United States or any county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, any other territory of the United States or any county, municipality, or political subdivision thereof which holds funds in an insured institution is separately insured in an amount up to $100,000.

(b) For purposes of this paragraph (a) if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for such each unit.

(c) Public bond issues. Where an officer, agent or employee of a public unit has custody of certain funds which by law are under the bond indenture are required to be paid to the holders, the bonds on which the funds are invested shall be insured in an amount up to $100,000. An insured institution shall be deemed to be an investment by a trustee of trust funds of which the bondholders are pro rata beneficiaries, and each such beneficial interest shall be separately insured up to $100,000.

(c) This section does not apply to tax and loan accounts, United States Treasury General Accounts, and United States Treasury Time Deposit-Open Accounts.

§ 566.8 Public unit accounts. (a) Each official custodian of funds of the United States, any State of the United States or any county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, any other territory of the United States or any county, municipality, or political subdivision thereof which holds funds in an insured institution is separately insured in an amount up to $100,000.

(b) Public bond issues. Where an officer, agent or employee of a public unit has custody of certain funds which by law are under the bond indenture are required to be paid to the holders, the bonds on which the funds are invested shall be insured in an amount up to $100,000. An insured institution shall be deemed to be an investment by a trustee of trust funds of which the bondholders are pro rata beneficiaries, and each such beneficial interest shall be separately insured up to $100,000.

(c) This section does not apply to tax and loan accounts, United States Treasury General Accounts, and United States Treasury Time Deposit-Open Accounts.
§ 564.9

12 CFR Ch. V (1-1-85 Edition)

\$ 564.10 Trust accounts and IRA and Keogh accounts.

All trust estates for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the settlor (grantor) shall be added together and insured up to $100,000 in the aggregate, separately from other accounts of the same beneficiary. Any trust accounts of the settlor or beneficiary of such trust arrangements, except that (a) all vested and ascertainable interests of the same beneficiary which qualify under section 401(d) of the Internal Revenue Code of 1954 shall be added together and insured up to $100,000 separately from any trust interests of the beneficiary, (b) all vested and ascertainable interests of the same beneficiary which qualify under section 408(a) of the Internal Revenue Code of 1954 shall be added together and separately insured up to an additional $100,000, and (c) all trust estates as defined in \$ 561.4(b) of this subchapter shall be added together and separately insured up to an additional $100,000.

(47 FR 20750, May 15, 1982)

Federal Home Loan Bank Board

Appendix

Example 1

Question A holds a $100,000 individual account. He then invests $50,000 in a separate account in the name of his wife B, who invests $50,000 in another account in her own name. If the institution does not have a separate record of each account, what is the insured amount?

Answer Since the available evidence shows that A is the actual owner of the funds in the $25,000 account, the Insurance Corporation may, at its option, add these funds to the $100,000 individual account held by A and insure the total of $125,000 to the $100,000 maximum, leaving $25,000 uninsured in that event. If B's $50,000 individual account would be separately insured ($564.23(a) and (b)).

Example 5

Question C, a minor, maintains an individual account of $75,000 with a school savings program. C's father makes a gift to him of $100,000, which is invested in a separate account by C's father, designated on the institution's records as custodian. What is the coverage?

Answer Under the two accounts are added together and insured up to a total of $100,000 ($564.3(a)). The individual account held by C's father is separately insured ($564.23(a)).

Example 6

Question G, a court appointed guardian, invests in a properly designated trust account $25,000 of funds in his custody which belong to W, his ward. W and G each maintain $25,000 individual accounts. What is the coverage?

Answer W's individual account and the guardianship account in G's name are added together and insured to $100,000 in the aggregate. The funds in W's individual account would be separately insured ($564.23(c)). If G has been judicially appointed does not affect the fact that the guardianship funds legally belong to W, the asset, the institution would regard the funds in G's individually owned funds ($564.23(c)) G's individual account is separately insured ($564.23(a)).
proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. The terms do not apply, however, to the furnishing of a form of proxy to a security holder upon the request of such security holder or to the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

§ 569.2 Form of proxies.

Every form of proxy solicited on or after December 1, 1971, by any person shall conform to the following requirements:

(a) The proxy shall be revocable at will by the person giving it. The power to revoke may not be conditioned on any event or occurrence or be otherwise limited, except that, in the case of a proxy relating to capital stock if such proxy is coupled with an interest, states such fact on its face, and is valid under the laws of the State in which it is to be exercised, such proxy may be made irrevocable to the extent permitted by such State law.

(b) The proxy may not be part of any other document or instrument (such as an account card).

(c) The proxy shall be clearly labeled "Revocable Proxy" in boldface type (at least as large as 18 point).

§ 569.3 Holders of proxies.

(a) No proxy of an insured mutual association shall be valid if deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.

(b) (1) Any monthly or less than monthly statement or account of the association shall be considered as a statement authorized or not authorized by the security holder if the statement contains a statement or notation of any kind that such statement or account is not authorized by the security holder.

§ 569.4 Proxy soliciting material.

No solicitation of a proxy shall be made by means of any statement, form of proxy, notice of meeting, or other communication, written or oral, which:

(a) Solicits any undated or postdated proxy.

(b) Solicits any proxy that provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.

(c) (1) Contains any statement that is false or misleading with respect to any material fact, or

(2) Omits to state any material fact that is necessary in order to make the statements therein not false or misleading or to correct any communications with respect to the solicitation of a proxy for the same meeting or subject matter that has subsequently become false or misleading.

PART 569A—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL ASSOCIATIONS

Sec 569a.1 Grounds for appointment of Receiver.

569a.2 Appointment of Receiver.

569a.3 Notice of appointment.

569a.4 Procedure on taking possession.

569a.5 Powers and duties as Receiver.

§ 569a.4 Possession by Receiver.

The Corporation shall take possession promptly of the insured institution for which it has been appointed Receiver by service of a certified copy of the Board's order of appointment upon the insured institution or upon
§ 569a.5

the conservator, receiver, or custodian of such institution "Service" as used in the preceding sentence is accomplished by leaving a certified copy of said order in the principal office of the insured institution or by handing a certified copy of said order to the conservator, receiver, or custodian of such insured institution or to the officer or employee of the insured institution or of the conservator, receiver, or custodian who shall be in the principal office of the institution and appears to be in charge of such office. The Receiver shall thereafter promptly notify in writing by certified mail the court having jurisdiction over such conservator, receiver, or custodian and any supervisory or regulatory authority to which the insured institution was theretofore subject of its possession of the insured institution. Immediately upon taking possession of any insured institution, the Receiver as Receiver shall forthwith take possession of and title to books, records, and assets of every description of such institution and of all of the assets of such institution. The Corporation as Receiver, by operation of law and without any conveyance or other instrument, shall succeed to (a) all the rights, titles, powers, and privileges of the insured institution, its members, holders of checking or savings accounts and non-withdrawable accounts, its officers and directors or any of them, and (b) the titles to the books, records, and assets of every description of any conservator, receiver, or other legal custodian of such institution appointed under State law. Such members, holders of checking or savings accounts and non-withdrawable accounts, officers or directors, or any of them, or any such conservator, receiver, or other legal custodian shall not thereafter have or exercise any such rights, powers, or privileges or act in connection with any asset or property of any nature of the institution in receivership.

(40 FR 46905, Oct. 6, 1975 as amended at 40 FR 52717, Nov. 12, 1975)

§ 569a.5 Procedure on taking possession

Upon taking possession as provided in the first paragraph of § 569a.4, the Receiver shall forthwith

12 CFR Ch. V (1-1-85 Edition)

(a) Post a notice in substantially the following form on the door of the principal offices of such insured institution.

The ———— (Name of institution) is in the hands of the Federal Savings and Loan Insurance Corporation, as Receiver of the Federal Home Loan Bank Board pursuant to law.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AS RECEIVER

(Date)

(b) File with the Secretary to the Board a statement that it has taken possession of such institution and of the time of such taking of possession, and such statement shall be conclusive evidence of such taking of possession and of the time of such taking of possession, and

(c) Notify, by certified mail or telegraph, all banks, trust companies, and all other individuals, partnerships, corporations and associations, known to the Receiver to be holding or in possession of any assets of such insured institution that the Federal Savings and Loan Insurance Corporation as Receiver has succeeded to all the rights, titles, powers, and privileges of such institution, and to the titles to all assets of such institution as of the date of such taking possession, and all other legal custodians of such institution appointed under State law.

§ 569a.6 Powers and duties of Receiver

The Receiver shall promptly have an inventory and an audit made, either by an independent Certified Public Accountant or as otherwise directed by the Board, of the books and assets of such institution as of the date of such taking possession, showing the value as carried on the books of the institution, and the security therefor, if any, in whatever form the same shall exist, with a brief description of each such asset and such security. Such assets may be listed in such groups as shall appear as convenient for the character and book value, and a record shall be included of the creditors and other liabilities of the institution. One copy of such inventory shall be filed promptly with the Secretary to the Board, and one copy shall be retained in the principal office for liquidation of the institution, so long as such office is maintained. Subject to such limitations, as are contained in this paragraph (a) of this section.

(a) General The Receiver shall collect all obligations and money due such insured institution, and may under appointment by the Federal Home Loan Bank Board pursuant to law.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AS RECEIVER

§ 569a.6 Powers and duties of Receivers

(d) Order the payment of all debts, including, without any limitation on the generality of the foregoing, any rights and powers under any mortgage, deed of trust, deed in trust, lease, option, collateral note, or mortgage insurance, and any other rights of any nature of such institution.

(2) Exercise all rights and powers of such institution, all rights of every nature, including without any limitation on the generality of the foregoing, any rights and powers under any mortgage, deed of trust, lease in trust, option, collateral note, or contract, judgment or decree, share or certificate of share of stock, or instrument of any nature.

(3) Institute, prosecute, maintain, defend, intervene and otherwise participate in any and all actions, suits, or legal proceedings by and against the institution or such institution or any of them, and to institute, maintain, defend, intervene and otherwise participate in any and all actions, suits, or legal proceedings by and against such institution or such institution or any of them, as the Receiver, such institution, or its creditors or members, or any of them, shall have an interest, and in every lawsuit, action, suit, or proceeding by or against such institution, its members and creditors.

(4) Employ on a salary or fee basis such personnel as in the judgment of the Receiver are necessary or advisable to carry out its functions, including appraisers and Certified Public Accountants, and pay the costs out of the assets of the receivership.

(5) Employ or retain any attorney or attorneys designated by, or acceptable to, the General Counsel of the Federal Home Loan Bank Board or any Board in connection with litigation or otherwise to give legal advice and assistance, for the receivership generally or in particular matters, and pay compensation and retainers of such attorney or attorneys, together with all expenses, including, but not limited to, the costs and expenses of service of process, as approved by said General Counsel, out of the assets of such receivership.

(6) Execute, acknowledge, and deliver any contracts, leases, assignments, bills of sale, releases, extensions, satisfactions, and other instruments necessary or proper for any purposes, including, without any limitation on the generality of the foregoing, the effectuation, termination, or modification of any contract or transfer of real, personal or mixed property, or that shall be necessary or proper to liquidate or carry on the business of such institution or an authorized agent appointed in accordance with paragraph (a)(1) of this section. Any deed or other instrument executed pursuant to the authority hereby given shall be as valid and effectual for all purposes as if the same had been executed as the act and deed of the institution.

(7) Do such things, and have such rights, powers, privileges, immunities, and duties, whether or not otherwise granted in the rules and regulations of this chapter, as shall be authorized, directed, conferred, or imposed from time to time by the Board.

§ 569a.6 Expenditure of funds of the receivership

The Receiver shall have power to:

(1) Pay all costs and expenses of the receivership as determined by it;

(2) Pay off and discharge taxes and liens;

(3) Pay out and expend such sums as shall deem necessary or advisable for or in connection with the protection, conservation, maintenance, conservation, protection, remodeling, repair, rehabilitation, or improvement of any asset or property of any nature of such institution or the Receivership;

(4) Pay out and expend such sums as shall deem necessary or advisable for or in connection with the protection, conservation, maintenance, conservation, or protection of, or pay off and discharge any taxes, assessments, liens, claims, or charges of any nature against, any asset or property of any nature of the institution or the Receivership;

(5) Settles, compromise, or obtain the release of, for cash or other consideration, claims and other amounts due against such institution or the Receivership;

(c) Assets, claims and contracts. The Receiver shall have power to:

(1) Sell, alienate, or exchange, or otherwise dispose of, in
whole or in part, any or all of the assets and property of the institution, real, personal and mixed, tangible and intangible, of any nature, whether by way of mortgage, deed of trust, choice in action, bond, note, contract, judgment, or decree, share or certificate of share of stock or debt, owing to such institution or the Receiver,

(2) Surrender, abandon, and release any choses in action, or other assets or property of any nature, whether of the subject of pending litigation or not, and settle, compromise, modify, or release, for cash or for consideration, claims and demands in favor of the institution or the Receiver,

(3) Reject or repudiate any lease or contract, which it considers burdensome. Prior to the final acceptance of any offer relating to the disposition of assets or property of any kind having an appraised value in excess of $25,000, but a book value of less than $100,000 or where the transaction involves consideration of more than $100,000, the Receiver shall publish a notice of such proposed transaction in a newspaper printed in the English language circulating in the general circulation in the city or country in which the home office of the institution is located, inviting interested persons to submit in writing any comments or additional offer no later than 15 days from the date of publication, or such longer period as the Receiver may deem desirable. If no substantive objection from an interested person or additional offer is received, the proposed transaction may be consummated by the Receiver. If such a substantive objection or additional offer is received, such objection or offer shall be considered by the Receiver, and a determination shall be made by the Receiver as to the course of action most favorable to the receivership. A written record of the course of action shall be transmitted to the Board. In the discretion of the Receiver any such objection or additional offer may be submitted to the Board for consideration. With respect to property of any kind having a book value in excess of $100,000, the Receiver shall submit any recommendation to the Board for approval of the terms of the proposed listing for sale. When an offer is received with respect to such property on terms at least as favorable as those approved by the Board, the Receiver shall publish a notice of such proposed transaction as provided above. If no substantive objection from an interested person or additional offer is received, the proposed transaction may be consummated by the Receiver. If such a substantive objective or additional offer is received, the proposed transaction offer shall be referred to the Board for decision.

(d) Investment of funds. The Receiver shall have the power to dispose of the money and funds of the receivership in any bank or banks insured by the Federal Deposit Insurance Corporation, in any insured institution within the State in which the institution in default is located which offers checking accounts, or in any Federal Home Loan Bank, and may invest such moneys or funds in certificates of deposit in any bank or banks insured by the Federal Deposit Insurance Corporation, in any savings accounts other than nonwithdrawable accounts, in an insured institution or institutions. The Receiver shall have the power to invest any funds not currently needed for transacting the business of the receivership or for payment of liquidation obligations with a maturity of not more than 2 years. The Receiver shall have no power to make loans except loans to facilitate the sale of any real estate owned and except loans which it deems necessary to protect investments or for security for investments. Borrowing. With approval of the Board and on terms and conditions approved by the Board, the Receiver may borrow in any amount and from any source and in any manner, and execute, acknowledge and deliver notes, certificates, and other evidences of indebtedness therefor and secure the repayment thereof by the mortgagor, pledge, assignment in trust or hypothecation of any or all personal, or mixed, tangible or intangible, of any nature of such institution or the Receiver, and such borrowing may be for any purpose, without any limitation on the generality of the foregoing, facilitating liquidation, carrying on the business of such institution, protection or preserving the assets in its possession, declaring and paying dividends to members and creditors, and providing for the expense of administration and liquidation.

§569a.7 Priority of claims.

(a) Claims against the receivership, except for claims specified in paragraphs (b), (c), and (d) of this section, shall have the following order of priority:

(1) All costs, expenses, and debts of the receivership incurred on or after the date of the appointment of the Receiver.

(2) All claims of creditors, including contractual claims for interest to the date of payment, to the extent that under the laws of the State in which the principal office of the institution in receivership is located such creditor claims are enforceable, and such creditor constituting a lien on, assets or property of any kind of the institution in receivership,

(3) All claims of general creditors, and the unsecured promissory notes of any creditor or customer of the receivership under paragraph (a)(2) of this section, valid as such under the laws of the State in which the principal office of the institution in receivership is located, including contractual claims for interest to the date of default,

(4) All claims of holders of checking and savings accounts, and/or the Federal Savings and Loan Insurance Corporation to the extent it has paid insurance to holders of such accounts, which under the laws of the State in which the principal office of the institution in receivership is located are given a priority for liquidation purposes over other classes of such accounts; and

(5) All claims of holders of other accounts, and/or the Federal Savings and Loan Insurance Corporation to the extent it has paid insurance to holders of such accounts.

(b) Creditors claims which have been subordinated in whole or in part to general creditor claims and/or claims of checking or savings account holders shall be given the priority specified in the instruments establishing such subordination. Instruments specify that such claims are subordinated to general creditor obligations and the position of such account holders upon liquidation of the receivership or institution, but are silent with respect to subordinating to the post-default interest rights of general creditors and such account holders. The payment of interest as set forth in paragraph (a)(6) of this section shall have priority over the principal amount of such subordinated creditor claim and any contractual interest thereon.

(c) In the case of institutions having nonwithdrawable accounts or mutual capital accounts, outstanding, the claims specified in paragraphs (a) and (b) of this section shall have priority, in the order stated above, over any claims by the holders of mutual capital certificates or nonwithdrawable accounts. If a surplus remains after making distribution in full to prior claimants as set forth in paragraphs (a) and (b) of this section, such surplus shall be distributed to the mutual capital certificate holders and nonwithdrawable account holders, in accordance with the terms and conditions and priorities specified in the instruments establishing their interests in the institution. If such instruments do not specify the terms, conditions, and
§ 569a.8 Creditor claims

(a) The Receiver shall promptly publish, in a newspaper printed in the English language and of general circulation in the city or county in which the principal office of such institution is located, a notice to all creditors of such institution with a statement to the effect, that notices of the Receiver on forms prescribed by the Receiver on or before a date specified in such notice for the purpose of proving their claims shall be accepted by the Receiver on forms prescribed by the Receiver on or before a date specified in such notice. Any such notice may be published in a newspaper printed in the English language and of general circulation in the city or county in which the principal office of such institution is located, in any other newspaper printed in such city or county, and in any other newspaper printed in any other city or county in which the accounts of such institution are required to be published under the provisions of any local law or the regulations of the Corporation.

(b) The Receiver shall file with the Board a list of all claims made by the Receiver and a list of all claims filed by the Receiver on or before a date specified in such notice. Any such notice may be published in a newspaper printed in the English language and of general circulation in the city or county in which the principal office of such institution is located, in any other newspaper printed in such city or county, and in any other newspaper printed in any other city or county in which the accounts of such institution are required to be published under the provisions of any local law or the regulations of the Corporation.

§ 569a.9 Claims of account holders.

The Receiver shall prepare a list of accounts of checking and savings accounts for use by the Corporation in settling claims of account holders for the purpose of presenting their claims to the Receiver. Notice of such accounts shall be given in a newspaper printed in the English language and of general circulation in the city or county in which the principal office of the institution is located, and in any other newspaper printed in any other city or county in which the accounts of the institution are required to be published under the provisions of any local law or the regulations of the Corporation.

§ 569a.10 Audits.

Each institution for which a Receiver has been appointed shall be audited at least annually by an independent Certified Public Accountant or as otherwise directed by the Board. No audit shall be made of any institution by the Board or any of its officers or employees. The auditor shall be accountable to the Board for the results of his audit, and the auditor shall be responsible for the accuracy of the statements contained in his report. The auditor shall be required to submit his report to the Board at least 30 days before the date of the meeting of the Board at which such report shall be considered. The auditor shall be required to submit his report to the Board at least 30 days before the date of the meeting of the Board at which such report shall be considered. The auditor shall be required to submit his report to the Board at least 30 days before the date of the meeting of the Board at which such report shall be considered.

§ 569a.11 Accounting practices; reports.

The Receiver may, from time to time, prescribe the accounting practices and procedures to be followed. The Receiver shall make an annual report of its affairs as of December 31 of each year to the Board. The report shall contain information on the declaration and payment of a liquidating dividend with a report showing the available assets. One copy of the report required in this section shall be filed with the Secretary to the Board, one copy shall be retained by the Corporation, and one copy shall be retained in the principal office for the liquidation of the institution, so long as such institution is maintained.

§ 569a.12 Final discharge and release of Receiver.

(a) Final report. At such time as the Receiver shall have completed its duties, the Board, in its discretion, may discharge the Receiver and authorize the release of the assets of the institution from the Receiver's control.

(b) Final discharge. Upon the final liquidation of the receivership, the Board may, in its discretion, authorize the release of the assets of the institution from the Receiver's control.

§ 569a.13 Purchase and assumption transactions.

The requirements set forth in §§ 569a.9(a), 569a.8(c)(3), 569a.8(c)(4), 569a.10, 569a.9 and 569a.10 shall not apply to the Corporation as Receiver for an institution that becomes the subject of a purchase and assumption transaction.
# CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

**EDITORIAL NOTE.** For nomenclature changes to Chapter VII, see 36 FR 18637, Sept 18, 1971, and 44 FR 33676, June 12, 1979.

**SUBCHAPTER A—REGULATIONS AFFECTING CREDIT UNIONS**

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>700</td>
<td>Definitions ........................................ 657</td>
</tr>
<tr>
<td>701</td>
<td>Organization and operation of Federal credit unions ........................................ 658</td>
</tr>
<tr>
<td>702</td>
<td>Reserves .............................................. 679</td>
</tr>
<tr>
<td>703</td>
<td>Investment and deposit activities ......................................................... 680</td>
</tr>
<tr>
<td>704</td>
<td>Corporate credit unions ......................................................... 683</td>
</tr>
<tr>
<td>705</td>
<td>Community development credit union program ........................................... 684</td>
</tr>
<tr>
<td>708</td>
<td>Mergers of credit unions ......................................................... 688</td>
</tr>
<tr>
<td>709</td>
<td>Division of assets, liabilities, and capital ........................................... 691</td>
</tr>
<tr>
<td>710</td>
<td>Voluntary liquidation of Federal credit unions ........................................ 693</td>
</tr>
<tr>
<td>711</td>
<td>Management official interlocks ......................................................... 696</td>
</tr>
<tr>
<td>721</td>
<td>Federal credit union insurance and group purchasing activities ................. 700</td>
</tr>
<tr>
<td>723</td>
<td>Operational systems ......................................................... 701</td>
</tr>
<tr>
<td>724</td>
<td>Trustees and custodians of pension plans ............................................ 702</td>
</tr>
<tr>
<td>725</td>
<td>National Credit Union Administration central liquidity facility .................. 702</td>
</tr>
<tr>
<td>740</td>
<td>Advertisement of insured status ....................................................... 709</td>
</tr>
<tr>
<td>741</td>
<td>Requirements for insurance and voluntary termination of insurance ............ 712</td>
</tr>
<tr>
<td>745</td>
<td>Clarification and definition of account insurance coverage ....................... 715</td>
</tr>
<tr>
<td>747</td>
<td>Administrative actions, adjudicative hearings, and rules of practice and procedure ........................................ 720</td>
</tr>
<tr>
<td>748</td>
<td>Minimum security devices and procedures ........................................... 748</td>
</tr>
<tr>
<td>749</td>
<td>Records preservation program ....................................................... 748</td>
</tr>
<tr>
<td>750</td>
<td>Flood insurance ......................................................... 749</td>
</tr>
</tbody>
</table>
National Credit Union Administration

SUBCHAPTER A—REGULATIONS AFFECTING CREDIT UNIONS

PART 700—DEFINITIONS

§ 700.1 Definitions.

As used in this chapter:


(b) "Administration" means the National Credit Union Administration.

(c) "Board" means the Board of the National Credit Union Administration.

(d) "Credit Union" means a credit union chartered under the Federal Credit Union Act or, as the context permits, under the laws of any State.

(e) "Regional Director" means the representative of the Administration in the designated geographical area in which the office of the Federal credit union is located.

(f) "Regional Office" means the office of the Administration located in the designated geographical areas in which the office of the Federal credit union is located.

(g) "State" means a State of the United States, the District of Columbia, any of the several Territories and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico.

(h) Pursuant to section 101(5) of the Federal Credit Union Act, the term "low income members" shall include (1) those members whose annual income falls at or below the lower standard of living classification as established by the Bureau of Labor Statistics, U.S. Department of Labor, (2) those members who are residents of a public housing project who qualify for such residency because of low income, (3) those members who qualify as recipients in a community action program, and (4) those members who are enrolled as full-time or part-time students in a college, university, high school, or vocational school.

(i) As used in section 101(5) of the Federal Credit Union Act, the term "predominantly" is defined as a simple majority.

(j) For the purpose of establishing the reserves required by section 116 of the Federal Credit Union Act, all assets except the following shall be considered risk assets:

(1) Cash on hand

(2) Deposits and/or shares in Federally or State insured banks, savings and loan associations, and credit unions

(3) Assets which are insured by, fully guaranteed as to principal and interest by, or due from the U.S. Government, its agencies, the Federal National Mortgage Association, or the Government National Mortgage Association.

(4) Loans to other credit unions.

(5) Loans to students insured under the provisions of title IV, part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) or similar State insurance programs.

(6) Loans that are fully or partially insured or guaranteed by the Federal or a State government or any agency of either.

(7) Shares or deposits in central credit unions. A central credit union is defined as a credit union whose membership primarily consists of:

(i) Other credit unions organized under State or Federal law,

(ii) Officials, committee members, and employees of any credit union organized under State or Federal law, or

(iii) Any combination of the categories described in paragraphs (i)(T)(i) and (ii) of this section.

(8) Common trust investments which deal in investments authorized by the Federal Credit Union Act.

(9) Prepaid expenses.

(10) Accrued interest on nonrisk investments

(11) Furniture and equipment

(12) Land and buildings

(13) Loans fully secured by a pledge of shares in the lending Federal credit union, equal to and maintained at least the amount of the loan outstanding.

(14) Loans which are purchased from liquidating credit unions and guaranteed by the National Credit Union Administration.

(15) National Credit Union Share Insurance Fund Guarantee Accounts established with the authorization of the National Credit Union Administra-
with the Fund terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the Fund. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the Fund until the next distribution from Fund equity and will thus qualify for a pro-rated share of the distribution.


(49 FR 40564, Oct. 17, 1984)

Effective Date Note At 49 FR 40564, Oct. 17, 1984, § 741.7 was revised at 49 FR 43918, Oct. 25, 1984, NCUA published a correction regarding the effective date of the information collection requirements in paragraph (a), stating that these requirements would not take effect until the Office of Management and Budget had cleared them. See the Federal Register for further notice of the effective date of those provisions.

§ 741.7 Financial and statistical and other reports.

(a) Each operating insured credit union shall file with the National Credit Union Administration on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.


(49 FR 40564, Oct. 17, 1984)

Effective Date Note At 49 FR 40564, Oct. 17, 1984, § 741.7 was revised at 49 FR 43918, Oct. 25, 1984, NCUA published a correction regarding the effective date of the information collection requirements in paragraph (a), stating that these requirements would not take effect until the Office of Management and Budget had cleared them. See the Federal Register for further notice of the effective date of those provisions.

§ 741.5 Insurance premium and one percent deposit.

(a) Scope. This section implements the requirements of section 202 of the Federal Credit Union Act (12 U.S.C. 1782) providing for the capitalization of the National Credit Union Share Insurance Fund through the maintenance of a deposit by each insured credit union in an amount equaling one percent of its insured shares and payment of an annual insurance premium.

(b) Definitions. For purposes of this section:

(1) “Insurance year” means a calendar year period, from January 1 through December 31.

(2) “Insured shares” means the total amount of a credit union’s share, share draft and share certificate accounts authorized to be issued to members, other credit unions or public units, exclusive of amounts in excess of insurance coverage limits as provided in 12 CFR Part 745, and, in the case of a federally insured state chartered credit union, shall include the accounts of members, other credit unions and public units if authorized by state law.

(3) “Fund” means the National Credit Union Share Insurance Fund.

(4) “Normal operating level” means a total value of Fund equity equaling 13 percent of the aggregate of all insured shares in insured credit unions.

(c) One percent deposit. Each insured credit union shall maintain with the Fund during each insurance year a deposit in an amount equaling one percent of the total of the credit union’s insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on or before January 31, or as otherwise directed by the Board.

(d) Premimum. Each insured credit union shall pay to the Fund, on or before January 31 of each insurance year or as otherwise directed by the Board, an insurance premium for that insurance year in an amount equaling one-twelfth of one percent of the credit union’s total insured shares as of the close of the preceding insurance year.

§ 741.7 National Credit Union Administration.

12 CFR Ch. VII (1-1-85 Edition)

(e) Redistribution of Fund equity. When the Fund exceeds its normal operating level, the Board, will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the Fund to its normal operating level. Such adjustment will be in the form determined by the Board and may include a waiver of insurance premiums, premium rebates and/or distributions from Fund equity.

(f) Form 1308. A certified copy of NCUA Form 1308 will be completed by each insured credit union in connection with its computation and funding of its annual premium payment or any change in its one percent deposit. The Form 1308 provides for any adjustments declared by the Board, resulting in a single net transfer of funds between the credit union and NCUA. Copies of Form 1308 may be obtained from any NCUA office.

(g) New chartering. A newly chartered credit union that obtains share insurance coverage from the Fund during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on or before January 31 of the following insurance year, but shall not participate in any distribution from Fund equity related to the period prior to the credit union’s conversion.

(h) Conversion to Federal insurance. An existing credit union that converts to insurance coverage with the Fund during an insurance year shall immediately pay its one percent deposit based on the total of its insured shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from Fund equity declared subsequent to the date of its conversion.

(i) Return of deposit. Any insolvent credit union that is closed for involun- tary liquidation will not be entitled to a return of its deposit from the credit union whose insurance coverage


(44 FR 17125, July 18, 1980, as amended at 47 FR 1371, Jan. 13, 1982)

§ 741.4 Accounts held by executors or administrators.

Accounts held by a corporation or partnership
12 CFR Ch. VII (1-1-85 Edition) National Credit Union Administration

the Board to the trustee with respect to all such trust interests shall not exceed the basic insured amount of 
$100,000.

(3) Each trust interest in any trust established by two or more settlors shall be deemed to be derived from 
each settlor pro rata to his contribution to the trust.

(4) The term "trust interest" means the interest of a beneficiary in an irrevocable express trust, whether 
created by trust instrument or statute, but does not include any interest re 
tained by the settlor.

§ 745.6 Single ownership accounts.

Funds owned by an individual and deposited in the manner set forth below shall be added together and in 
sured up to $100,000 in the aggregate (Individual accounts). Funds owned 
by an individual (or by the community between husband and wife of which an individual is a member) and 
deposited in one or more deposit 
accounts in his own name shall be insured up to $100,000 in the aggregate.

(a) Accounts held by guardians, custodians, or conservators. Funds held 
by a guardian, custodian, or conserva 
tor for the benefit of his ward or for the benefit of a minor under a Uni 
iform Gifts to Minors Act and deposit 
ed in one or more deposits in the name of the guardian, custodian, or conserva 
tor shall be added to any individual 
deposit accounts of the ward or minor and insured up to $100,000 in the aggregate.

§ 745.6 Accounts held by a corporation or partnership.

Deposits of a corporation or partnership engaged in any independent activity shall be insured up to $100,000 in the aggregate. A deposit of a corpora 
tion or partnership not engaged in an independent activity shall be deemed, to be owned by the person or persons owning such corporation or comprai 
sing such partnership and, for deposit insurance purposes, the interest of each person in such a deposit shall be added to any other deposit individually.
owned by such persons and insured up to $100,000 in the aggregate
§ 745.7

Accounts held by an unincorporated association.
§ 745.7

Deposits of an unincorporated association engaged in any independent activity shall be insured up to $100,000 in the aggregate. A deposit of an unincorporated association not engaged in any independent activity shall be deemed to be owned by the persons comprising such association and, for deposit insurance purposes, the interest of each owner in such a deposit account shall be added to any other deposit account individually owned by such person and insured up to $100,000 in the aggregate.

§ 745.8

Joint accounts
(a) Separate insurance coverage. Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entirety, as tenants in common, or by husband and wife as community property, shall be insured separately from deposit accounts individually owned by the coowners.
(b) Qualifying joint accounts. A joint account shall be deemed to exist for purposes of insurance of accounts, only if each coowner has personally executed a joint account signature card and possesses withdrawal rights.

The restrictions of this paragraph shall not apply to coowners of a time certificate of deposit or to any deposit obligation evidenced by a negotiable instrument, but such a deposit must in fact be jointly owned.
(c) Failure to qualify. An account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.
(d) Same combination of individuals. All joint accounts owned by the same combination of individuals shall first be added together and insured up to $100,000 in the aggregate.
(e) Interest of each coowner. The interests of each coowner in all joint accounts owned by different combinations of individuals shall then be added together and insured up to $100,000 in the aggregate.

§ 745.9

Trust accounts.
All trusts interests, for the same beneficiary, de a trust of a trust account established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to $100,000 in the aggregate, separately from other deposit or share accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

§ 745.9-2 Keogh accounts and individual retirement accounts.
(a) The present vested ascertainable interest of a citizen or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described in section 401(d) or section 408(a) of the Internal Revenue Code shall be insured up to $100,000 separately from other deposits or share accounts of the same classification.
(b) Upon liquidation of a credit union, any insurance coverage payment shall be made by the Board to the trustee or custodian, or the successor trustee or custodian, unless otherwise directed in writing, by the plan participant or beneficiary.

National Credit Union Administration
§ 745.12

Deposit obligations for payment of items forwarded for collection by credit union acting as agent.
Where a closed credit union has become obligated for the payment of items forwarded for collection by a credit union acting solely as agent, the owner of such items shall be recognized for all purposes of claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such credit union forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured credit union to the Board and for the purpose of receiving payment on behalf of such owners.

§ 745.12

Deposit obligations for payment of items forwarded for collection by credit union acting as agent.
When a closed credit union has become obligated for the payment of items forwarded for collection by a credit union acting solely as agent, the owner of such items shall be recognized for all purposes of claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such credit union forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured credit union to the Board and for the purpose of receiving payment on behalf of such owners.

[(36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975) (36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975)]

[(36 FR 2477, Feb 15, 1971, as amended at 40 FR 3287, Jan 21, 1975 Redesignated at 40 FR 25582, June 17, 1985)]

[(36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975) (36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975 Redesignated at 40 FR 25582, June 17, 1985)]

[(36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975) (36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975 Redesignated at 40 FR 25582, June 17, 1985)]

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[(36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975) (36 FR 2477, Feb 5, 1971, as amended at 40 FR 3287, Jan 21, 1975 Redesignated at 40 FR 25582, June 17, 1985)]
§ 745.13 Notification of depositors/shareholders

Each insured credit union is required to provide notice of these rules and regulations for clarification and definition of Insurance Coverage of Member Accounts, Part 745, not later than 180 days after the effective date of these regulations or 90 days after being insured, whichever is later, to the owners of each account which had a balance in excess of $5,000 on any date selected by the credit union between October 1, 1970, and June 30, 1971. Credit unions insured after the effective date of this regulation may select the end of any month of the preceding 6 months before being insured to determine balances in excess of $5,000. Such notice shall consist of mailing to such owners at their last known address as shown on the records of the insured credit union, a question and answer brochure on insurance of deposits. A small initial supply of such brochures will be prepared and furnished without cost by the Board. Additional copies may be purchased from the usual source of supply. Such information shall also be made available to the public at each teller's station or window where deposits or shares are normally received and at new account or share stations of an insured credit union. Additional explanatory materials may also be sent to depositors at the option of the insured credit union. For purposes of this section the term "teller station" and "window" do not include automated teller machines or points of sale terminals.


PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, AND RULES OF PRACTICE AND PROCEDURE

§ 747.101 Scope

Subpart A—Rules of Practice and Procedure

§ 747.101 Scope

12 CFR Ch. VII (1-1-85 Edition)

National Credit Union Administration

§ 747.01 (a) This part describes the various administrative adjudicative actions available to the National Credit Union Administration Board, the grounds for such actions and the procedures used in hearings related to each available action. The administrative actions described herein, as well as the grounds and hearing procedures for each, are controlled by sections 120(b) (except where the Federal credit union is closed due to insolvency), 206 and 304(c)(3) of the Federal Credit Union Act. Should any provision of this part be inconsistent with these, or any other provisions of said Act, as amended, the Act shall control. Judicial enforcement of any action or order described in this part, as well as judicial review thereof, shall be as prescribed under the Federal Credit Union Act (12 U.S.C. 1751 et seq.) (hereinafter