

exhausted prior to any judicial challenge to the provisions of this rule.

### Paperwork Reduction Act

In accordance with the Office of Management and Budget regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and record keeping requirements that are covered by this final rule were approved under OMB number 0580-0015 on January 30, 2009, and expire on January 31, 2011.

### E-Government Act Compliance

GIPSA is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

### List of Subjects in 9 CFR Part 201

Reporting and recordkeeping requirements, Measurement standards, Trade practices.

For the reasons set forth in the preamble, 9 CFR part 201 is amended as follows:

### PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

- 1. The authority citation for part 201 would continue to read as follows:

**Authority:** 7 U.S.C. 181–229c.

- 2. Section 201.72 is revised to read as follows:

#### § 201.72 Scales; testing of.

(a) As a stockyard owner, swine contractor, market agency, dealer, packer, or live poultry dealer who weighs livestock, live poultry, or feed for purposes of purchase, sale, acquisition, payment, or settlement of livestock or live poultry, or who weighs livestock carcasses for the purpose of purchase on a carcass weight basis, or who furnishes scales for such purposes, you must have your scales tested by competent persons at least twice during each calendar year. You must complete the first of the two scale tests between January 1 and June 30 of the calendar year. The remaining scale test must be completed between July 1 and December 31 of the calendar year. You must have a minimum period of 120 days between these two tests. More frequent testing will be required in cases where the scale does not maintain accuracy between tests. *Except that* if scales are used on a limited seasonal basis (during either the 6-month period of January through June or July through

December, but not both) for purposes of purchase, sale, acquisition, payment or settlement, the stockyard owner, swine contractor, market agency, dealer, live poultry dealer, or packer making use of such scales, must complete one scale test within 6-months prior to use.

(b) As a stockyard owner, swine contractor, market agency, dealer, packer, or live poultry dealer who weighs livestock, livestock carcasses, live poultry, or feed for purposes of purchase, sale, acquisition, payment, or settlement of livestock, livestock carcasses or live poultry, you must furnish reports of tests and inspections on forms approved by the Administrator. You must retain one copy of the test and inspection report for yourself, and file a second copy with the P&SP regional office for the geographical region where the scale is located.

(c) When scales used for weighing livestock, livestock carcasses, live poultry, or feed are tested and inspected by a State agency, municipality, or other governmental subdivision, the forms used by such agency for reporting such scale tests and inspections may be accepted in lieu of the forms approved for this same purpose by the Administrator if the forms contain substantially the same information.

**J. Dudley Butler,**

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2011-1093 Filed 1-19-11; 8:45 am]

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### NATIONAL CREDIT UNION ADMINISTRATION

#### 12 CFR Part 707

**RIN 3133-AD72**

#### Truth in Savings

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

**ACTION:** Final rule.

**SUMMARY:** On July 22, 2009, NCUA published a final rule amending NCUA's Truth in Savings regulation and the accompanying official staff interpretations. The final rule addressed credit unions' disclosure practices related to overdraft services, including balances disclosed to members through automated systems. This final rule amends NCUA's Truth in Savings rule and official staff interpretations to address the application of the July 2009 final rule to retail sweep programs and the terminology for overdraft fee disclosures and to make amendments

that conform to the Federal Reserve Board's (Federal Reserve) final Regulation E amendments addressing overdraft services, adopted in November 2009. This rule also makes final the minor technical corrections to sample form B-12 that were part of the interim final rule.

**DATES:** The effective date of September 7, 2010 and October 1, 2010 for § 707.11(a)(1)(i) is confirmed as final without change.

**FOR FURTHER INFORMATION CONTACT:** Justin M. Anderson, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, or telephone: (703) 518-6540.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Truth in Savings Act (TISA) requires NCUA to promulgate regulations substantially similar to those promulgated by the Federal Reserve within 90 days of the effective date of the Federal Reserve's rules. 12 U.S.C. 4311(b). In doing so, NCUA is to take into account the unique nature of credit unions and the limitations under which they pay dividends on member accounts. *Id.*

On January 29, 2009, the Federal Reserve published a final rule amending Regulation DD, its TISA rule, and the official staff commentary to address depository institutions' disclosure practices related to overdraft services, including balances disclosed to consumers through automated systems. 74 FR 5584 (January 29, 2009). NCUA issued a similar final rule on July 22, 2009. 74 FR 36102 (July 22, 2009). Both rules had an effective date of January 1, 2010.

In November 2009, the Federal Reserve adopted a final rule amending Regulation E, which implements the Electronic Fund Transfer Act. This final rule limits a financial institution's ability to assess fees for paying ATM and one-time debit card transactions pursuant to the institution's discretionary overdraft service without the consumer's affirmative consent to such payment.

Since publication of the Federal Reserve's January 2009 final rule, institutions and others have requested clarification of particular aspects of the rule and further guidance regarding compliance with the rule. In addition, the Federal Reserve believed conforming amendments to Regulation DD were necessary in light of certain provisions subsequently adopted in the Regulation E final rule. Accordingly, in

March 2010, the Federal Reserve proposed to amend Regulation DD and the official staff commentary. 75 FR 9126 (March 1, 2010). Based on comments it received, the Federal Reserve issued a final rule on June 4, 2010. 75 FR 31673 (June 4, 2010).

## II. Interim Final Rule

In compliance with TISA, NCUA issued an interim final rule with request for comment on July 29, 2010, that was substantially similar to the Federal Reserve's June 2010 final rule. The interim final rule also included technical corrections to the aggregate overdraft and returned item fees sample form for formatting purposes. The Board issued the rule as an interim final rule because there is a strong public interest in having consumer-oriented rules in place that are consistent with those recently promulgated by the Federal Reserve. Additionally, as discussed above, NCUA is statutorily required to issue rules substantially similar to those of the Federal Reserve within 90 days of the effective date of the Federal Reserve's rules.

## III. Summary of Comments

NCUA received three comments on the interim final rule. Two comments were from credit union trade associations and one comment was from a State credit union league. Each commenter suggested some degree of change to the final rule. As discussed below, the three areas where comments offered suggestions were use of the term "Total Overdraft Fees," use of model form B-12, and the mandatory compliance date for the amendments to § 707.11(a)(1)(i).

First, all three commenters requested the Board permit credit unions to use terms other than "Total Overdraft Fees" in a member's periodic statement. One commenter argued that the use of "Total Overdraft Fees" would actually result in more confusion as a credit union's account opening and promotional materials might use a different term than the one required by the rule on periodic statements. Another commenter suggested that the Board should allow credit unions to use the term "Total Overdraft Fees for paid items," which, the commenter argues, will further enhance the distinction between fees paid for items that are covered by the credit union and fees paid because an item is returned for insufficient funds. The third commenter requested that the Board allow credit unions to use a term that is substantially similar to "Total Overdraft Fees," which the commenter argues is in line with the Federal Reserve's regulations. The

Board disagrees with these comments and reiterates its position from the interim final rule that permitting the use of terminology other than "Total Overdraft Fees" could be confusing to members and potentially undermines their ability to compare costs, particularly if the member has accounts at different credit unions that each use different terminology. Further, the Board notes that requiring credit unions to use the term "Total Overdraft Fees" is identical to the requirement in the Federal Reserve's rule and this term in conjunction with the other provisions in the current rule provide sufficient distinction between overdraft fees and fees for insufficient funds.

Two commenters provided suggestions on the technical changes to model form B-12. One commenter asked for additional guidance on the requirement that credit unions disclose the information in model form B-12 in a tabular format. Another commenter requested that credit unions be required to continue using the original form to prevent them from needing to spend money on reformatting periodic disclosure forms. With regard to both comments, the Board notes that § 707.11(a)(3) of NCUA's regulations requires credit unions to use a format that is substantially similar to model form B-12. With respect to the first comment, the Board does not believe that a non-tabular disclosure is "substantially similar" to model form B-12 and, therefore, would be impermissible under the rule. With respect to the second comment, however, the Board does believe using model form B-12 without the interim final rule's technical corrections would be considered substantially similar. The technical corrections made in the interim final rule do not change the substance or purpose of the form, but rather ensure conformity with the model form used by the Federal Reserve. Credit unions can continue to use the non-amended form until their supplies are depleted.

Finally, one commenter requested the Board extend the mandatory compliance date for the use of the term "Total Overdraft Fees" to provide credit unions with sufficient time to implement this change. Since the mandatory compliance date has already passed and credit unions are currently required to use the term "Total Overdraft Fees," this comment is moot. Further, as noted in the preamble to the interim final rule, the Board did consider the burden on credit unions and chose a date that would allow compliance in conjunction with the Federal Reserve while

minimizing the inconvenience to credit unions.

## IV. Regulatory Procedures

Section III of the **SUPPLEMENTARY INFORMATION** to the July 2009 final rule sets forth the Board's analyses under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104-121), Executive Order 13132, and the Treasury and General Government Appropriations Act (Pub. L. 105-277, 112 Stat. 2681 1998). *See* 74 FR 36102-36106. Because the final amendments are clarifications and do not alter the substance of the analyses and determinations accompanying that final rule, the Board continues to rely on those analyses and determinations for purposes of this rulemaking.

By the National Credit Union Administration Board on January 13, 2010.

**Mary F. Rupp,**

*Secretary of the Board.*

## List of Subjects in 12 CFR Part 707

Advertising, Credit unions, Consumer protection, Reporting and recordkeeping requirements, Truth in savings.

Accordingly, the interim final rule amending 12 CFR Part 707, which was published at 75 FR 47173 on August 5, 2010, is adopted as a final rule without change.

[FR Doc. 2011-1091 Filed 1-19-11; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

[Docket No. FDA-2010-N-0002]

#### Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline and Flunixin

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Norbrook Laboratories, Ltd. The NADA provides for veterinary prescription use of a combination drug injectable solution containing oxytetracycline and flunixin meglumine in cattle.