

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

RIN 3133-AD65

#### Chartering and Field of Membership for Federal Credit Unions

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

**ACTION:** Notice of extension of comment period.

**SUMMARY:** On December 17, 2009, the NCUA Board issued a proposed rule amending its chartering and field of membership manual to update its community chartering policies and define the terms “rural district” and “in danger of insolvency” for emergency merger purposes. 74 FR 68722 (December 29, 2009). NCUA has received several requests to extend the comment period set in the proposed rule and has determined to extend the comment period for an additional 45 days.

**DATES:** Comments must be postmarked or received by April 15, 2010.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *NCUA Web Site:* <http://www.ncua.gov/RegulationsOpinionsLaws/proposedregs/proposedregs.html>. Follow the instructions for submitting comments.

- *E-mail:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name] Comments on Proposed Rule IRPS 09-1,” in the e-mail subject line.

- *Fax:* (703) 518-6319. Use the subject line described above for e-mail.

- *Mail:* Address to Mary F. Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- *Hand Delivery/Courier:* Same as mail address.

*Public Inspection:* All public comments are available on the agency’s website at <http://www.ncua.gov/RegulationsOpinionsLaws/comments> as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA’s law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an

appointment, call (703) 518-6546 or send an e-mail to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:**

Frank Kressman, Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314 or telephone (703) 518-6540.

**SUPPLEMENTARY INFORMATION:** On December 17, 2009, the NCUA Board issued a proposed rule to amend its chartering and field of membership manual to update its community chartering policies. The amendments include using objective and quantifiable criteria to determine the existence of a local community and defining the term “rural district.” The amendments clarify NCUA’s marketing plan requirements for credit unions converting to or expanding their community charters and define the term “in danger of insolvency” for emergency merger purposes. 74 FR 68722 (December 29, 2009).

NCUA requested comments on its proposal and set a 60-day comment period. NCUA has received several requests to extend the comment period. The NCUA Board believes a 45-day extension will help facilitate the submission of comments without causing undue delay to the rulemaking process. Accordingly, the comment period is extended and comments must now be postmarked or received by April 15, 2010.

By the National Credit Union Administration Board on February 1, 2010.

**Mary Rupp,**

*Secretary of the Board.*

[FR Doc. 2010-2605 Filed 2-5-10; 8:45 am]

**BILLING CODE 7535-01-P**

## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Part 1225

RIN 2590-AA01

#### Minimum Capital

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is issuing and seeking comment on a proposed rule to effect a provision of the Federal Housing Enterprises Financial Safety and Soundness Act that provides for a temporary increase in the minimum capital level for entities regulated by FHFA—Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or the Federal Home Loan Banks. The proposed rule

provides clarity regarding standards for imposing a temporary increase, for rescinding such an increase and a time frame for review of such an increase.

**DATES:** Comments on the proposed rule must be received on or before April 9, 2010. For additional information, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** You may submit your comments on the proposed rulemaking, identified by “[RIN 2590-AA01],” by any one of the following methods:

- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail to [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov). Please include “[RIN 2590-AA01]” in the subject line of the message.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov) to ensure timely receipt by the agency. Include the following information in the subject line of your submission: “Minimum Capital Proposed Rule, [RIN 2590-AA01].”

- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/[RIN 2590-AA01], Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

- *Hand Delivery/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/[RIN 2590-AA01], Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Christopher T. Curtis, Senior Deputy General Counsel, [Christopher.Curtis@fhfa.gov](mailto:Christopher.Curtis@fhfa.gov), (202) 414-8947 or Jamie Schwing, Associate General Counsel, [Jamie.Schwing@fhfa.gov](mailto:Jamie.Schwing@fhfa.gov), (202) 414-3787, (not toll-free numbers), Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

#### I. Comments

The Federal Housing Finance Agency (FHFA) invites comment on all aspects of the proposed rule, and will take all relevant comments into consideration before issuing the final regulation. Copies of all comments will be posted

without change, including any personal information you provide, such as your name and address, on the FHFA Internet Web site at <http://www.fhfa.gov>. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414-3751.

## II. Background

The Housing and Economic Recovery Act of 2008 (HERA), Public Law 110-289, 122 Stat. 2654, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) (Safety and Soundness Act) to establish FHFA as an independent agency of the Federal Government. FHFA was established to oversee the prudential operations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation (collectively, Enterprises), and the Federal Home Loan Banks (Banks) (collectively, regulated entities) and to ensure they operate in a safe and sound manner including being capitalized adequately; foster liquid, efficient, competitive and resilient national housing finance markets; comply with the Safety and Soundness Act and other authorizing statutes, and with rules, regulations, guidelines and orders issued under these statutes and the charters of the Enterprises and the Banks; carry out their missions through activities authorized and consistent with the Safety and Soundness Act and their charters; and, that the activities and operations of the entities are consistent with the public interest.<sup>1</sup> The regulated entities continue to operate under regulations promulgated by the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board until such time as the existing regulations are supplanted by regulations promulgated by the FHFA.<sup>2</sup>

Section 1111 of HERA amended section 1362 of the Safety and Soundness Act to provide additional authorities for FHFA regarding minimum capital requirements. Section 1362(a) establishes a minimum capital level for the Enterprises, while section 1362(b) incorporates the minimum capital level for the Federal Home Loan Banks established by the Federal Home

Loan Bank Act (Bank Act).<sup>3</sup> The section explicitly authorizes the Director, by regulation, to provide for capital levels higher than the minimum levels specified for the Enterprises or the Banks or for both to promote safe and sound operations.<sup>4</sup> Also, section 1362(e) provides for additional capital and reserve requirements to be issued by order or regulation with respect to a product or activity.<sup>5</sup> Section 1362(f) provides for a periodic review of core capital maintained by an Enterprise, the amount of capital retained by the Banks and the minimum capital levels set forth for the regulated entities required under this section.<sup>6</sup>

In addition, section 1362(d) provides that the Director, by order, may temporarily increase an established minimum capital level, when the director determines “that such an increase is necessary and consistent with the prudential regulation and the safe and sound operations of a regulated entity.”<sup>7</sup> The section also provides that the Director shall rescind the temporary minimum capital level when the Director determines circumstances no longer justify the temporary level.<sup>8</sup> To effect the higher temporary minimum capital level, the Director must issue regulations setting forth standards for the imposition of a temporary increase, standards and procedures that will be used to make the determination regarding rescission and a time frame for periodic review of any temporary increase in the minimum capital level to make a determination regarding rescission.<sup>9</sup>

Especially in times of economic stress such as the present, it is important that the Director be able to respond when necessary to conditions affecting a regulated entity by imposing an appropriately higher capital requirement in an expeditious manner. Section 1362(d) recognizes that need, and the proposed rule would implement that authority. The proposed rule sets

forth procedures and standards as required in the Safety and Soundness Act for a temporary increase in the minimum capital levels of the Enterprises or the Banks, including a determination to order an increase, to rescind all or part of the increase and the time for periodic review of an increase as provided in section 1362(d). The standards that the Director would apply in determining whether to impose a temporary capital increase, and its amount, are those that experience has shown are indicators of the financial health of an institution and, in the worst case, of its risk of failure.

## Regulatory Impacts

### *Paperwork Reduction Act*

The proposed regulation does not contain any information collection requirement that requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation does not have a significant economic impact on a substantial number of small entities 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. The Director of FHFA certifies that the proposed rule is not likely to have a significant economic impact on a substantial number of small business entities because the rule is applicable only to the regulated entities, which are not small entities for purposes of the Regulatory Flexibility Act.

## List of Subjects

Capital, Federal Home Loan Banks, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Filings, Minimum Capital, Procedures, Standards.

Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 4513, 4526 and 4612, the Federal Housing Finance Agency proposes to amend Chapter XII of title 12 of the Code of Federal Regulations by adding part 1225 to Subchapter B to read as follows:

<sup>3</sup> The Bank Act's current minimum capital requirements apply to the eleven banks that have converted to the capital structure provided in the Bank Act as amended by the Gramm-Leach-Bliley Act of 1999, *see* Bank Act section 6(a)(2), 12 U.S.C. 1426(a)(2), but do not apply to the Federal Home Loan Bank of Chicago. The Federal Home Loan Bank of Chicago is subject to capital requirements as set forth in a 2007 Cease and Desist Order, as amended. *See* 74 FR 5597 (January 30, 2009). As a result, the definition of “minimum capital level” as set forth in the proposed regulation is structured to take into account the current supervisory status of the Federal Home Loan Bank of Chicago.

<sup>4</sup> 12 U.S.C. 4612(c).

<sup>5</sup> 12 U.S.C. 4612(e).

<sup>6</sup> 12 U.S.C. 4612(f).

<sup>7</sup> 12 U.S.C. 4612(d)(1).

<sup>8</sup> 12 U.S.C. 4612(d)(2).

<sup>9</sup> 12 U.S.C. 4612(d)(3).

<sup>1</sup> 12 U.S.C. 4513.

<sup>2</sup> *See* sections 1302 and 1312 of HERA.

**Subchapter B—Entity Regulations****PART 1225—MINIMUM CAPITAL—TEMPORARY INCREASES**

Sec.

- 1225.1 Purpose.
- 1225.2 Definitions.
- 1225.3 Procedures.
- 1225.4 Standards and Factors.

**Authority:** 12 U.S.C. 4513, 4526 and 4612.

**§ 1225.1 Purpose.**

FHFA is responsible for ensuring the safe and sound operation of regulated entities. In furtherance of that responsibility, this part sets forth standards and procedures FHFA will employ to determine whether to require or rescind a temporary increase in the minimum capital levels for a regulated entity or entities pursuant to 12 U.S.C. 4612(d).

**§ 1225.2 Definitions.**

For purposes of this part, the term:

*Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term *Enterprises* means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

*Minimum Capital Level* means the lowest amount of capital meeting any regulation or orders issued pursuant to 12 U.S.C. 1426(a)(2) and 12 U.S.C. 4612, or any similar requirement established for a Federal Home Loan Bank by regulation, order or other action.

*Regulated Entity* means—

- (1) The Federal National Mortgage Association and any affiliate thereof;
- (2) The Federal Home Loan Mortgage Corporation and any affiliate thereof; and
- (3) Any Federal Home Loan Bank.

*Rescission* means a removal in whole or in part of an increase in the temporary minimum capital level.

**§ 1225.3 Procedures.**

(a) *Information*—(1) *Information to the Regulated Entity or Entities*. If the Director determines, based on standards enunciated in this part, that a temporary increase in the minimum capital level is necessary, the Director will provide notice to the affected regulated entity or entities 30 days in advance of the effective date of such increase, unless the Director determines that an exigency exists that does not permit such notice or the Director determines a longer time period would be appropriate.

(2) *Information to the Government*. The Director shall inform the Secretary of the Treasury, the Secretary of Housing and Urban Development, and the Chairman of the Securities and

Exchange Commission of a temporary increase in the minimum capital level contemporaneously with informing the affected regulated entity or entities.

(b) *Comments*. The affected regulated entity or entities may provide comments regarding or objections to the temporary increase to FHFA within 15 days or such other period as the Director determines appropriate under the circumstances. The Director may determine to modify, delay, or rescind the announced temporary increase in response to such comments or objection, but no further notice is required for the temporary increase to become effective upon the date originally determined by the Director.

(c) *Communication*. The Director shall transmit notice of a temporary increase or rescission of a temporary increase in the minimum capital level by written, electronic, or such other means as appropriate. Such communication shall set forth, at a minimum, the bases for the Director's determination, the amount of increase or decrease in the minimum capital level, the duration of such increase, and a description of the procedures for requesting a rescission of the temporary increase in the minimum capital level.

**§ 1225.4 Standards and factors.**

(a) *Standard for Imposing a Temporary Increase*. In making a determination to increase temporarily a minimum capital requirement for a regulated entity or entities, the Director will consider the necessity and consistency of such an increase with the prudential regulation and the safe and sound operations of a regulated entity. The Director may impose a temporary minimum-capital increase if consideration of one or more of the following factors leads the Director to the judgment that the current minimum capital requirement for a regulated entity is insufficient to address the entity's risks:

- (1) Current or anticipated declines in the value of assets held by a regulated entity; the amounts of a regulated entity's outstanding mortgage backed securities; and, its ability to access liquidity and funding;
- (2) Credit (including counterparty), market, operational and other risks facing a regulated entity, especially where a depreciation in the value of its capital or assets, a decline in liquidity, or an increase in risks is foreseeable and consequential;
- (3) Current or projected declines in the capital held by a regulated entity;
- (4) The state of a regulated entity's compliance with regulations, written orders, or agreements;

(5) Unsafe or unsound operations or practices, or circumstances that reflect unsafe and unsound conduct by a regulated entity;

(6) Housing finance market conditions;

(7) Level of reserves or retained earnings;

(8) Initiatives, operations, products, or practices that entail heightened risk;

(9) With respect to a Bank, the ratio of the market value of its equity to the par value of its capital stock; or

(10) Other conditions as detailed by the Director in the notice provided under § 1225.3.

(11) In making a finding under this section, the Director may require a written plan to augment capital to be submitted on a timely basis to address the methods by which such temporary increase may be attained and the time period for reaching the new temporary minimum capital level.

**(b) Rescission of a Temporary Increase.**

In making a determination to rescind a temporary increase in the minimum capital level, whether in full or in part, the Director shall consider the following standards:

(1) Changes to the circumstances or facts that led to the imposition of a temporary increase in the minimum capital levels;

(2) The meeting of targets set for a regulated entity in advance of any capital or capital-related plan agreed to by the Director;

(3) Changed circumstances or facts based on new developments occurring since the imposition of the temporary increase in the minimum capital level, particularly where the original problems or concerns have been successfully addressed or alleviated in whole or in part; or

(4) Such other standard as the Director may consider as detailed by the Director in the notice provided under § 1225.3.

**(c) Time Frame for Review of**

*Temporary Increase for Purpose of Rescission*. (1) Absent an earlier determination to rescind in whole or in part a temporary increase in the minimum capital level for a regulated entity or entities, the Director shall no less than every 12 months, consider the need to maintain, modify, or rescind such increase.

(2) A regulated entity or regulated entities may at any time request in writing such review by the Director.

(d) *Guidances*. The Director may determine, from time to time, issue guidance to elaborate, to refine or to provide new information regarding standards or procedures contained herein.

Dated: January 31, 2010.

**Edward J. DeMarco,**

*Acting Director, Federal Housing Finance Agency.*

[FR Doc. 2010-2677 Filed 2-5-10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0033; Directorate Identifier 2009-NM-099-AD]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Model 767 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Model 767 airplanes. The existing AD currently requires repetitive detailed and high frequency eddy current (HFEC) inspections of the station (STA) 1809.5 bulkhead for cracking, and corrective actions if necessary. This proposed AD would expand the inspection area to include the vertical inner chord at STA 1809.5. This proposed AD results from reported fatigue cracking in the vertical inner chord and the forward outer chord while doing the detailed inspection of the horizontal inner chord at STA 1809.5. We are proposing this AD to detect and correct fatigue cracking in the bulkhead structure at STA 1809.5 and the vertical inner chord at STA 1809.5, which could result in failure of the bulkhead structure for carrying the flight loads of the horizontal stabilizer, and consequent loss of controllability of the airplane.

**DATES:** We must receive comments on this proposed AD by March 25, 2010.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE.,

Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; e-mail [me.boecom@boeing.com](mailto:me.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### FOR FURTHER INFORMATION CONTACT:

Berhane Alazar, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6577; fax (425) 917-6590.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2010-0033; Directorate Identifier 2009-NM-099-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

#### Discussion

On November 9, 2006, we issued AD 2006-24-04, Amendment 39-14833 (71 FR 68432, November 27, 2006), for all Model 767 airplanes. That AD requires repetitive detailed and high frequency eddy current (HFEC) inspections of the station (STA) 1809.5 bulkhead for cracking, and corrective actions if necessary. That AD resulted from fatigue cracks found in the forward outer chord and horizontal inner chord at STA 1809.5. We issued that AD to detect and correct cracking in the bulkhead structure at STA 1809.5, which could result in failure of the bulkhead structure for carrying the flight loads of the horizontal stabilizer, and consequent loss of controllability of the airplane.

#### Actions Since Existing AD Was Issued

Since we issued AD 2006-24-04, an operator reported fatigue cracking in the vertical inner chord found while doing the detailed inspection of the horizontal inner chord required by that AD. A surface HFEC inspection was done to confirm the crack. The crack was found on the right side of the structure at a fastener hole near buttock line (BL) 28.5, water line (WL) 257, common to both the horizontal and vertical inner chord. The vertical inner chord crack was found on an airplane with 28,234 total flight cycles.

#### Relevant Service Information

AD 2006-24-04 refers to Boeing Alert Service Bulletin 767-53A0131, dated March 30, 2006, as the appropriate source of service information for the required actions. We have reviewed Boeing Alert Service Bulletin 767-53A0131, Revision 1, dated March 12, 2009. Revision 1 adds a surface HFEC inspection for the vertical inner chord, and clarifies the procedures for inspecting the horizontal inner chord. The service bulletin specifies a compliance time of before 15,000 total flight cycles or within 6,000 flight cycles after the previous PARTS 1-4 inspection, whichever occurs first, for the surface HFEC inspection for the vertical inner chord. The service bulletin also specifies a repeat interval 6,000 flight cycles thereafter for the surface HFEC inspection for the vertical inner chord.

#### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2006-