

# Rules and Regulations

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## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 740 and 745

RIN 3133-AD78

#### Display of Official Sign; Permanent Increase in Standard Maximum Share Insurance Amount

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

**ACTION:** Final rule.

**SUMMARY:** President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) on July 21, 2010. Section 335 of the Dodd-Frank Act amended the Federal Credit Union Act (FCU Act) to make permanent the standard maximum share insurance amount (SMSIA) of \$250,000. NCUA is amending its share insurance and official sign regulations to conform to this statutory change.

**DATES:** The rule is effective September 2, 2010. The mandatory compliance date regarding the revisions to NCUA's official sign rule, 12 CFR Part 740, is March 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Frank Kressman, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314 or telephone (703) 518-6540.

**SUPPLEMENTARY INFORMATION:** NCUA is amending its Part 745 share insurance regulations and Part 740 official sign regulations to reflect Congress' action making permanent the increase in the SMSIA from \$100,000 to \$250,000.

#### A. Background

The Emergency Economic Stabilization Act of 2008 temporarily increased the SMSIA from \$100,000 to \$250,000 through December 31, 2009. Public Law 110-343 (Oct. 3, 2008). On October 15, 2008, NCUA issued an interim final rule amending its share

insurance regulations to reflect that temporary increase. 73 FR 62856 (October 22, 2008). On May 20, 2009, the President signed the Helping Families Save Their Homes Act of 2009 ("Helping Families Act") which, among other things, extended the temporary increase in the SMSIA from December 31, 2009 to December 31, 2013. Public Law 111-22 (May 20, 2009). On October 22, 2009, NCUA issued a final rule which, among other things, amended its share insurance regulations to reflect this extension. 74 FR 55747 (October 29, 2009). On July 21, 2010, the President signed the Dodd-Frank Act which, among other things, made permanent the increase in the SMSIA from \$100,000 to \$250,000. Public Law 111-203 (July 21, 2010).<sup>1</sup>

Part 740 of NCUA's regulations requires that each insured credit union continuously display an official NCUA sign. The official sign informs members of the minimum amount of share insurance coverage to which they are entitled and states that the insurance is backed by the full faith and credit of the United States Government. Because the SMSIA of \$250,000 has been temporary until the recent enactment of the Dodd-Frank Act, NCUA's current official sign regulation has provided insured credit unions with maximum flexibility in displaying the sign. 12 CFR 740.4. Specifically, § 740.4 currently permits insured credit unions the options to: (1) Continue to display the version of the official sign reflecting the \$100,000 limit; (2) display any other version of the official sign distributed or approved by NCUA and appearing on NCUA's official Web site that reflects the increase to \$250,000; or (3) alter by hand or otherwise the \$100,000 sign to make it reflect the increase to \$250,000 provided the altered sign is legible and otherwise complies with Part 740.

<sup>1</sup> The effective date of the Dodd-Frank Act is July 22, 2010, one day after its enactment. Although the SMSIA has been permanently increased, it is still subject to an inflation adjustment pursuant to subparagraph (F) of section 11(a)(1) of the Federal Deposit Insurance Act. 12 U.S.C. 1821(a)(1)(F). However, this inflation adjustment will not affect the level of the SMSIA in the foreseeable future because it will not take effect until the value of \$100,000, inflation adjusted since 2005, exceeds the current SMSIA.

#### B. The Final Rule

##### 1. Section 745.1—Share Insurance Definitions

The final rule amends NCUA's share insurance regulation by defining the SMSIA as \$250,000 on a permanent basis as mandated by the Dodd-Frank Act.

##### 2. Section 740.4—NCUA's Official Sign

The final rule amends NCUA's official sign rule to reflect the permanent increase in the SMSIA. The official sign will continue to have the same size and design. The only revision is replacing "\$100,000" with "\$250,000" on the sign. This amendment also is in response to the Dodd-Frank Act.

To ensure credit union members are made aware of the permanent \$250,000 limit, insured credit unions should obtain and display the new official sign as promptly as possible, but in no event later than the mandatory compliance date discussed below. After the mandatory compliance date, insured credit unions may only display the revised official sign reflecting the \$250,000 limit. Insured credit unions may not continue to display signs reflecting the \$100,000 limit nor may they continue to display signs that originally reflected the \$100,000 limit that have been altered by hand or otherwise to reflect the \$250,000 limit. NCUA is aware, from previous experience, that putting a revised official sign in place can be a disruptive process for credit unions. NCUA recognizes the need to balance easing that burden with the importance of informing members of the increased insurance coverage.

Accordingly, an insured credit union will be required to replace the old version of the official sign with the revised official sign at required locations such as each station or window where the credit union normally receives insured funds or deposits in its principal place of business and all of its branches and on its internet page where it accepts deposits or opens accounts by March 2, 2011, which is six months from the effective date of this rule. Additionally, a credit union must replace the old version of the official sign with the revised official sign on each document where the credit union has chosen to include the official sign, including advertisements, marketing and

promotional materials, disclosures, and others by that same date. NCUA believes six months is sufficient time for an insured credit union to replace physical and internet signs and deplete its stockpiles of other printed advertising materials. NCUA also believes that many credit unions are already using official signs and printed advertising materials reflecting the \$250,000 limit as permitted by § 740.4.

NCUA will provide insured credit unions with an initial supply of the revised official sign with a blue background and white lettering at no cost and has already made a downloadable graphic of the revised official sign available on the agency Web site for credit unions to use on their own Web sites. An insured credit union may continue to purchase signs from a commercial supplier or develop its own and use any color scheme it chooses so long as the sign is legible and otherwise complies with Part 740. 12 CFR 740.4(b)(2).

### C. Administrative Procedure Act

NCUA believes that good cause exists for issuing the final rule without an opportunity for public comment, pursuant to section 553(b)(3)(B) of the Administrative Procedure Act (APA), because seeking public comment under these circumstances is “unnecessary,” “impracticable,” and “contrary to the public interest.” 5 U.S.C. 553(b)(3)(B). NCUA also finds good cause for issuing the final rule without a 30-day delayed effective date, pursuant to section 553(d)(3) of the APA.

The Dodd-Frank Act amends section 207(k)(5) of the FCU Act, 12 U.S.C. 1787(k)(5), to permanently increase the SMSIA to \$250,000. The final rule makes conforming amendments to NCUA’s regulations to reflect this statutory change. None of the other regulations affecting the calculation of share insurance are affected by the final rule.

The final rule only amends NCUA’s definition of SMSIA to conform to the language of the amended FCU Act and conforms the official NCUA sign to be consistent with those provisions. In this circumstance, NCUA has no rulemaking discretion that could be informed by the APA’s notice and comment process. Accordingly, NCUA finds that notice and comment procedures are “unnecessary” and that the “good cause” exception to the APA’s notice and comment requirement applies. *See, e.g., Gray Panthers Advocacy Comm. v. Sullivan*, 936 F.2d 1284, 1290–92 (DC Cir. 1991) (regulations that “either restate or paraphrase the detailed requirements” of a self-executing statute

do not require notice and comment); *Nat’l Customs Brokers & Forwarders Ass’n v. United States*, 59 F.3d 1219, 1223–24 (Fed. Cir. 1995) (notice and comment unnecessary where Congress directed agency to change regulations and public would benefit from amendments).

Additionally, a finding of good cause is warranted because it would be “impracticable” and “contrary to the public interest” to delay the effective date of this rule in order to seek public comment on the revision. Because the revision to the SMSIA was effective one day after enactment of the Dodd-Frank Act, it is in the public interest for NCUA to take immediate action to make credit union members aware of the permanent increase in share insurance coverage. A delay in taking action would be detrimental to this goal, and therefore, complying with formal notice and comment procedures is “impracticable” and “contrary to the public interest.”

Finally, a finding of good cause for waiving the requirement of a 30-day delayed effective date is warranted because of the need to provide immediate guidance to credit union members. Timely displaying of the new official sign will provide this. Also, delaying the effective date is unnecessary because the only provision of the final rule requiring credit unions to take action will not be enforced for six months after the rule’s effective date, which is when credit unions must comply with the rule.

### D. Regulatory Procedures

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). This rule will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is required.

#### *Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, Public Law 104–121, provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the APA. 5 U.S.C. 551. The Office of Information and Regulatory Affairs, an office within the Office of Management and Budget, is currently reviewing this rule, and NCUA

anticipates it will determine that, for purposes of SBREFA, this is not a major rule.

#### *Paperwork Reduction Act*

The final rule will revise NCUA’s share insurance and official sign regulations. It will not involve any new collections of information pursuant to the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.* NCUA has determined that the amendments will not increase paperwork requirements and a paperwork reduction analysis is not required.

#### *Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This final rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

#### *The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

### List of Subjects

#### *12 CFR Part 740*

Advertisements, Credit unions, Signs and symbols.

#### *12 CFR Part 745*

Credit unions, Share insurance.

By the National Credit Union Administration Board, this 25th day of August 2010.

**Linda K. Dent,**

*Acting Secretary of the Board.*

■ For the reasons discussed above, NCUA amends 12 CFR Parts 740 and 745 as follows:

**PART 740—ACCURACY OF ADVERTISING AND NOTICE OF INSURED STATUS**

■ 1. The authority citation for Part 740 continues to read as follows:

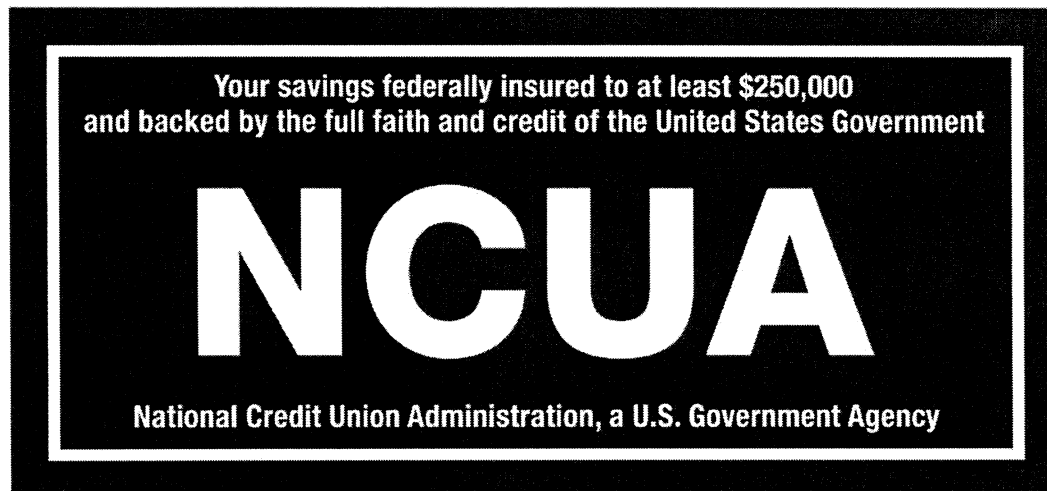
Authority: 12 U.S.C. 1766, 1781, 1789.

■ 2. Section 740.4 is amended by revising the image in paragraph (b) introductory text and by removing the last sentence of paragraph (b)(1).

**§ 740.4 Requirements for the official sign.**

\* \* \* \* \*

(b) \* \* \*



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**PART 745—SHARE INSURANCE AND APPENDIX**

■ 3. The authority citation for Part 745 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789.

■ 4. Section 745.1(e) is revised to read as follows:

**§ 745.1 Definitions.**

\* \* \* \* \*

(e) The term “standard maximum share insurance amount,” referred to as the “SMSIA” hereafter, means \$250,000 adjusted pursuant to subparagraph (F) of section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(F)).

[FR Doc. 2010-21864 Filed 9-1-10; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2010-0481; Directorate Identifier 2009-NM-192-AD; Amendment 39-16406; AD 2010-17-14]

RIN 2120-AA64

**Airworthiness Directives; The Boeing Company Model 737-100 and -200 Series Airplanes**

AGENCY: Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Model 737-100 and -200 series airplanes. This AD requires repetitive inspections for cracking and damaged fasteners of certain fuselage frames and stub beams, and corrective actions if necessary. For certain airplanes, this AD also requires repetitive inspections for cracking of the inboard chord fastener hole of the frame at body station 639, stringer S-16, and corrective actions if necessary. For certain airplanes, this AD also requires an inspection to determine the edge margin of the lower chord. For airplanes with a certain short edge margin, this AD requires repetitive inspections for cracking, and corrective actions if necessary; replacing the lower chord terminates the repetitive inspections. This AD requires an eventual preventive modification. For certain airplanes, doing the modification or a repair terminates the repetitive inspections for the repaired or modified frame only. For airplanes on which the modification or repair is done at certain body stations, this AD requires repetitive inspections for cracking of certain frame webs and inner and outer chords, and corrective actions if necessary. For certain other airplanes, this AD requires a modification which includes reinforcing the body frame inner chords, replacing the stub beam upper chords and attach angles, and reinforcing the stub beam web. This AD results from reports of fatigue cracks at certain frame sections,

in addition to stub beam cracking, caused by high flight cycle stresses from both pressurization and maneuver load. We are issuing this AD to detect and correct fatigue cracking of certain fuselage frames and stub beams, and possible severed frames, which could result in reduced structural integrity of the frames. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and result in rapid decompression of the fuselage.

**DATES:** This AD is effective October 7, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of October 7, 2010.

**ADDRESSES:** For service information identified in this 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>.

**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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527)