

BOARD ACTION MEMORANDUM

TO: NCUA Board

DATE: March 4, 2011

FROM: Director, Office of
Corporate Credit Unions

SUBJ: Technical Corrections to
Delegations and Addition
Of Delegated Authority
for Director, OCCU

ACTION ITEM: Board authorization of the following:

- (1) Revise COR 9, COR 14, COR 15, COR 16, and COR 20 to amend the regulatory references pursuant to the new Part 704 which became effective January 18, 2011.
- (2) Rescind delegated authority COR 17 related to Part II expanded authority. Part II expanded authority was eliminated in the new Part 704.
- (3) Adopt COR 21 to provide the Director of the Office of Corporate Credit Union's delegated authority to approve/disapprove net economic value (NEV) Action Plans required for violations of Section 704.8.

ACTION DATE: March 17, 2011

OTHER OFFICES CONSULTED: Office of Capital Markets, Office of General Counsel, and the Office of Examination and Insurance.

VIEWS OF OTHER OFFICES CONSULTED: Concur

SUBMITTED TO THE INSPECTOR GENERAL FOR REVIEW:

BUDGET IMPACT, IF ANY: None.

RESPONSIBLE STAFF MEMBERS: Deputy Director David Shetler and Staff Attorney Elizabeth Wirick

SUMMARY:

Background

In 2009 and 2010, the Office of Corporate Credit Unions, the Office of General Counsel, and the Office of Capital Markets drafted revisions to NCUA Rules and Regulations Part 704 governing corporate credit unions. The NCUA Board (NCUAB) adopted the final rule in September 2010. The final rule implemented major revisions to corporate credit

union capital, investments, asset-liability management, governance, and credit union service organization (CUSO) activities. The rule established a new capital scheme (which is being phased in over time), including risk based capital requirements; imposes new prompt corrective action requirements; places various new limits on corporate investments; imposes new asset-liability management controls; amends some corporate governance provisions; and limits a corporate CUSO to categories of services preapproved by NCUA. These amendments will strengthen individual corporates and the corporate credit union system as a whole.

As part of the revisions to Part 704, authorities that had been explicitly granted by regulation to the Director, OCCU were amended to indicate "NCUA." Additionally, deletions of some regulatory provisions and additions of new sections resulted in the renumbering of Part 704. As a result, a number of the existing delegated authorities for the Director, OCCU need technical reference corrections to align with the new Part 704, one delegated authority needs to be rescinded, and one new delegated authority is proposed to replace an authority previously delegated by regulation to the OCCU Director.

We are recommending the following technical corrections (deletions struck-through, additions in bold and underscored) to COR 9, COR 14, COR 15, COR 16, and COR 20; the rescission of COR 17, and the adoption of proposed COR 21.

Technical Corrections:

COR 9 – Director, OCCU

Authority to give final approval to corporate credit unions which have received preliminary approval from the NCUA Board to expand their powers under 12 C.F.R 704 Appendix B, ~~Part III~~ **Part II**.

Explanation for COR 9 Revision: The proposed change corrects the expanded authority reference for Part 704 which was revised and approved by the NCUAB on September 24, 2010 and was subsequently published in the federal register on October 20, 2010.

COR 14 – Director, OCCU

Authority to approve/disapprove corporate credit union requests for Part I ~~and Part II~~ expanded authorities under 12 C.F.R. 704 Appendix B, with prior concurrence of the Office of Capital Markets.

Explanation for COR 14 Revision: The proposed change corrects the expanded authority reference for Part 704 which was revised and approved by the NCUAB on September 24, 2010 and was subsequently published in the federal register on October 20, 2010.

COR 15 – Director, OCCU

Authority to approve/disapprove corporate credit union requests for ~~Part IV~~ **Part III** expanded authorities under 12 C.F.R. 704 Appendix B, with prior concurrence of General Counsel and the Office of Capital Markets.

Explanation for COR 15 Revision: The proposed change corrects the expanded authority reference for Part 704 which was revised and approved by the NCUAB on September 24, 2010 and was subsequently published in the federal register on October 20, 2010.

COR 16 – Director, OCCU

Authority to approve/disapprove corporate credit union requests for ~~Part V~~ **Part IV** expanded authorities under 12 C.F.R. 704 Appendix B.

Explanation for COR 16 Revision: The proposed change corrects the expanded authority reference for Part 704 which was revised and approved by the NCUAB on September 24, 2010 and was subsequently published in the federal register on October 20, 2010.

COR 20 – Director, OCCU

Under its waiver authority in §704.1(b), the Board permitted the following alternate capital level for purposes of regulatory compliance with the provisions NCUA's corporate rule (Part 704). Corporate credit unions may use their capital levels, as reported on their November 30, 2008 call report, for purposes of determining regulatory compliance with the following capital-based requirements and limitations: capital ratio, §704.3(d); earnings retention requirement, §704.3(i); concentration limits, §704.6(c) - **(e)**; lending limits, §704.7(c); borrowing limits, §704.9(b); corporate CUSO investment and loan limits, §704.11(b); fidelity bond deductibles, §704.18(e); ~~wholesale corporate credit union earnings retention requirement, §704.19(b)~~; and expanded authorities, Appendix B. This waiver, if not previously modified or rescinded by the Board, will terminate on the date of the one year anniversary of the publication in the Federal Register of the final amendments to Part 704, NCUA's corporate credit union rule, see 74 Fed. Reg. 65210 (December 9, 2009) (publication for public comment of proposed amendments to Part 704).

The Board delegates the authority to modify, restrict, or establish conditions in connection with this waiver in particular cases for corporate credit unions, with such modifications, restrictions, or conditions to remain in effect no longer than the termination or rescission date noted in the above paragraph; and, further, to consider in exercising this delegated authority the safety and soundness of individual corporate credit unions, as well as the safety and soundness of the corporate credit union system

and the interests of the National Credit Union Share Insurance Fund, and the interests of natural person credit union members in the availability and continuity of lending, liquidity, and other services from their corporate credit unions. The OCCU Director will promptly thereafter report his actions under this authority to the Office of the Executive Director and the NCUA Board.

Explanation for COR 20 Revision: The proposed change for the concentration limit reference for Part 704 was revised to include all concentration limits now included in the revised regulation. The second revision deletes the reference to Part 704.19 – Wholesale Corporate Credit Unions - which was eliminated from the new Part 704.

Rescission:

COR 17 – Director, OCCU

~~Authority to approve/disapprove corporate credit union waiver requests to Part II concentration limits, under 12 C.F.R. Appendix B, up to 50 percent of capital in any single obligor with the prior concurrence of the Office of Capital Markets and Planning.~~

Explanation for COR 17 Elimination: Part II expanded authority as authorized under the previous version of Part 704 was eliminated from the new Part 704.

Proposed New Delegated Authority:

COR 21 – Director of OCCU

Authority to approve/disapprove corporate credit union NEV Action Plans pursuant to § 704.8(j).

Explanation for COR 21: Under the previous Part 704, the Director OCCU had authority to approve NEV Action Plans. The revised Part 704 adopted by the NCUAB in September 2010, effective January 18, 2011 eliminated this authority when the words “OCCU Director” were replaced with “NCUA.” The proposed delegated authority COR 21 re-establishes this authority.

RECOMMENDED ACTION: The NCUA Board:

- (1) Revise COR 9, COR 14, COR 15, COR 16, and COR 20 to amend the regulatory references pursuant to the new Part 704 which became effective January 18, 2011.
- (2) Rescind delegated authority COR 17.
- (3) Adopt proposed COR 21 to provide the Director of the Office of Corporate Credit Union's delegated authority to approve/disapprove NEV Action Plans required for violations of §704.8.

Scott Hunt
Director
Office of Corporate Credit Unions