

only be compared to total median earnings for individuals for the metropolitan area where they live or national metropolitan area, whichever is greater. A Federal credit union may rely on a sample of membership income data drawn from loan files or a member survey provided the Federal credit union can demonstrate the sample is a statistically valid, random sample by submitting with its data a narrative describing its sampling technique and evidence supporting the validity of the analysis, including the actual data set used in the analysis. The random sample must be representative of the membership, must be sufficient in both number and scope on which to base conclusions, and must have a minimum confidence level of 95% and a confidence interval of 5%. A Federal credit union must draw the sample either entirely from loan files or entirely from the survey, and must not combine a loan file review with a survey. NCUA will provide a response to the Federal credit union within 60 days of its submission.

(4) If NCUA determines a low-income designated Federal credit union no longer meets the criteria for the designation, NCUA will notify the Federal credit union in writing, and the Federal credit union must, within five years, meet the criteria for the designation or come into compliance with the regulatory requirements applicable to Federal credit unions that do not have a low-income designation. The designation will remain in effect during the five-year period. If a Federal credit union does not requalify and has secondary capital or nonmember deposit accounts with a maturity beyond the five-year period, NCUA may extend the time for a Federal credit union to come into compliance with regulatory requirements to allow the Federal credit union to satisfy the terms of any account agreements. A Federal credit union may request NCUA to reconsider a determination that it no longer meets the criteria for the designation and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

(5) Any credit union with a low-income credit union designation on Janu-

ary 1, 2009 will have five years from that date to meet the criteria for low-income designation under paragraph (a)(1) of this section, unless NCUA determines a longer time is required to allow the low-income credit union to satisfy the terms of a secondary capital or nonmember deposit account agreement.

(6) *Definitions.* The following definitions apply to this section:

*Median family income and total median earnings for individuals* are income statistics reported by the U.S. Census Bureau. The applicable income data can be obtained via the American Community Survey on the Census Bureau's web page at <http://www.census.gov>.

*Metropolitan area* means an area designated by the Office of Management and Budget pursuant to 31 U.S.C. 1104(d), 44 U.S.C. 3504(c), and Executive Order 10253 (June 13, 1951) (as amended).

(b) [Reserved]

[61 FR 3790, Feb. 2, 1996, as amended at 61 FR 50695, 50697, Sept. 27, 1996; 64 FR 72270, Dec. 27, 1999; 65 FR 21131, Apr. 20, 2000; 71 FR 4238, Jan. 26, 2006; 73 FR 71912, Nov. 26, 2008; 75 FR 7342, Feb. 19, 2010; 75 FR 47172, Aug. 5, 2010; 75 FR 57843, Sept. 23, 2010; 76 FR 36979, June 24, 2011; 76 FR 80227, Dec. 23, 2011; 78 FR 4032, Jan. 18, 2013; 82 FR 50291, Oct. 30, 2017; 85 FR 62210, Oct. 2, 2020; 86 FR 11072, Feb. 23, 2021]

**§ 701.35 Share, share draft, and share certificate accounts.**

(a) Federal credit unions may offer share, share draft, and share certificate accounts in accordance with section 107(6) of the Act (12 U.S.C. 1757(6)) and the board of directors may declare dividends on such accounts as provided in section 117 of the Act (12 U.S.C. 1763).

(b) A Federal credit union shall accurately represent the terms and conditions of its share, share draft, and share certificate accounts in all advertising, disclosures, or agreements, whether written or oral.

(c) A Federal credit union may, consistent with this section, parts 707 and 740 of this subchapter, other federal law, and its contractual obligations, determine the types of fees or charges and other matters affecting the opening, maintaining and closing of a share,

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share draft or share certificate account. State laws regulating such activities are not applicable to federal credit unions.

(d) For purposes of this section, "state law" means the constitution, statutes, regulations, and judicial decisions of any state, the District of Columbia, the several territories and possessions of the United States, and the Commonwealth of Puerto Rico.

[47 FR 17979, Apr. 27, 1982, as amended at 50 FR 4637, Feb. 1, 1985; 58 FR 50445, Sept. 27, 1993]

### § 701.36 Federal credit union occupancy and disposal of acquired and abandoned premises.

(a) *Scope.* Section 107(4) of the Federal Credit Union Act (12 U.S.C. 1757(4)) authorizes a federal credit union to purchase, hold, and dispose of property necessary or incidental to its operations. This section interprets and implements that provision by establishing occupancy and disposal requirements for acquired and abandoned premises, and by prohibiting certain transactions. This section applies only to federal credit unions.

(b) *Definitions.* For purposes of this section:

*Abandoned premises* means premises previously used to transact credit union business but no longer used for that purpose. It also means premises originally acquired to transact future credit union business but no longer intended for that purpose.

*Immediate family member* means a spouse or other family member living in the same household.

*Partially occupy* means occupation and use, on a full-time basis, of at least fifty percent of each of the premises by the federal credit union, or the federal credit union and a credit union service organization in which the federal credit union has a controlling interest in accordance with Generally Accepted Accounting Principles (GAAP).

*Premises* means any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the federal credit union transacts or will transact business.

*Senior management employee* means the federal credit union's chief executive officer, any assistant chief execu-

tive officers, and the chief financial officer. For example, these individuals typically hold the title of President or Treasurer/Manager, Assistant President, Vice President or Assistant Treasurer/Manager, and Comptroller.

*Unimproved land or unimproved real property* means:

(1) Raw land or land without development, significant buildings, structures, or site preparation;

(2) Land that has never had improvements;

(3) Land that was improved at one time but has functionally reverted to its unimproved state; or

(4) Land that has been improved, but the improvements serve no purpose for the federal credit union's planned use of the property.

(c) *Premises not currently used to transact credit union business.* (1) If a federal credit union acquires premises, including unimproved land or unimproved real property, it must partially occupy each of them within a reasonable period, but no later than six years after the date of acquisition. NCUA may waive the partial occupation requirements. To seek a waiver, a federal credit union must submit a written request to its Regional Office and fully explain why it needs the waiver. The Regional Director will provide the federal credit union a written response, either approving or disapproving the request. The Regional Director's decision will be based on safety and soundness considerations.

(2) A federal credit union must make diligent efforts to dispose of abandoned premises and any other real property it does not intend to use in transacting business. The federal credit union must seek fair market value for the property, and record its efforts to dispose of abandoned premises. After premises have been abandoned for four years, the federal credit union must publicly advertise the property for sale. The federal credit union must complete the sale within five years of abandonment, unless NCUA waives this requirement. To seek a waiver, a federal credit union must submit a written request to its Regional Office and fully explain why it needs the waiver. The Regional Director will provide the federal credit