ATTACHMENT TO PUBLIC MEETING ON RESULTS OF PILOT SITE VISITS AND REVISION TO MAINTENANCE INSPECTION GUIDANCE

REGISTRATION FORM

UNITED STATES NUCLEAR REGULATORY COMMISSION
MAINTENANCE RULE INSPECTION PROCEDURE WORKSHOP

June 27, 1995

(PLEASE PRINT)

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Ronald Frahm, Jr. M/S O-10-A-19
U.S. Nuclear Regulatory Commission
Washington D.C. 20555

[FR Doc. 95–9764 Filed 4–19–95; 8:45 am]
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FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Regulation O; Docket No. R–0875]

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Loans to Holding Companies and Affiliates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing an amendment to Regulation O to conform the definition of unimpaired capital and unimpaired surplus in the regulation's definition of lending limit to the definition of capital and surplus recently adopted by the Office of the Comptroller of the Currency in calculating the limit on loans by a national bank to a single borrower. The proposed rule would reduce the recordkeeping burden for member banks monitoring lending to their insiders and their related interests.

DATES: Comments should be submitted on or before May 22, 1995.

ADDRESSES: Comments should refer to Docket No. R–0875, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street NW. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Gregory Baer, Managing Senior Counsel (202/452–3236), or Gordon Miller, Attorney (202/452–2534), Legal Division; or William G. Spaniel, Assistant to the Director (202/452–3469), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

The Board's Regulation O (12 CFR Part 215) implements the insider lending prohibitions of section 22(h) of the Federal Reserve Act. Section 215.2(i) of the regulation (12 CFR 215.2(i)) defines the limit for loans to any insider of a member bank and insider of the bank's affiliates as an amount equal to the limit on loans to a single borrower established by the National Bank Act (12 U.S.C. 84). That amount is 15 percent of the bank's unimpaired capital and unimpaired surplus for loans that are not fully secured, and an additional 10 percent of the bank's unimpaired capital and unimpaired surplus for loans that are fully secured by certain readily marketable collateral.[1]

Although Regulation O adopts the percentage limits used in the National Bank Act, Regulation O provides its own definition of what constitutes unimpaired capital and unimpaired surplus. Unimpaired capital and unimpaired surplus are equal to the sum of (i) ''total equity capital'' as reported on the bank's most recent consolidated report of condition, (ii) any subordinated notes and debentures that comply with requirements of the bank's primary regulator for inclusion in the bank's capital structure and are reported on the bank's most recent consolidated report of condition, and (iii) any valuation reserves created by charges to the bank's income and reported on the bank's most recent consolidated report of condition. 12 CFR 215.2(i).

The Office of the Comptroller of the Currency (OCC) has recently revised its regulatory definition of unimpaired capital and unimpaired surplus for purposes of implementing the single borrower limit of the National Bank Act. *See* 59 FR 8533, February 15, 1995. Under that revised definition, a national bank's ''capital and surplus'' are equal to Tier 1 and Tier 2 capital included in the calculation of the bank's risk-based capital together with the amount of the bank's allowance for loan and lease losses not included in this calculation. 12 CFR 32.2(b).

The Board is proposing to amend Regulation O to conform its definition of unimpaired capital and unimpaired surplus to the OCC's revised definition of capital and surplus. In substantially all cases, the Board believes that calculating the insider lending limits of Regulation O using the revised definition would not significantly increase or decrease a bank's insider lending limit. The elimination of the separate definition of unimpaired capital and unimpaired surplus in Regulation O therefore is expected to create minimal disruption in lending by member banks to their insiders and to insiders of their affiliates, while eliminating duplication in the calculation of lending limits for national banks and for state member banks with state lending limits identical to national bank lending limits.

[1] The lending limit also includes any higher amounts that are permitted by the exceptions included in 12 U.S.C. 84. Where state law establishes a lower lending limit for a state member bank, that lower lending limit is the lending limit for the state member bank.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b))—a description of the reasons why the action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule—are contained in the supplementary information above.

Another requirement for the initial regulatory flexibility analysis is a description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposed rule would apply to all member banks, regardless of size. The Board has determined that its proposed rule would impose no additional reporting or recordkeeping requirements, and that there are no relevant federal rules that duplicate, overlap, or conflict with the proposed rule. In addition, the proposed rule is not expected to have a negative economic impact on small institutions. Instead, the proposed rule is expected to relieve the regulatory burden on a large majority of member banks.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507; 5 CFR 1320.13), the Board will review its proposed amendment to Regulation O under authority delegated to the Board by the Office of Management and Budget after considering comments received during the public comment period.

List of Subjects in 12 CFR Part 215

Credit, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 215 as set forth below:

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (REGULATION O)

1. The authority citation for part 215 continues to read as follows:

Authority: 12 U.S.C. 248(i), 375a(10), 375b (9) and (10), 1817(k)(3) and 1972(2)(G)(ii); Pub. L. 102–242, 105 Stat. 2236.

2. Section 215.2 is amended as follows:

a. The last sentence of paragraph (i) introductory text is revised;

b. Paragraphs (i)(1) and (i)(2) are revised; and

c. Paragraph (i)(3) is removed.

The revisions read as follows:

§ 215.2 Definitions.

* * * * *

(i) * * * A member bank's unimpaired capital and unimpaired surplus equals:

(1) A bank's Tier 1 and Tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate Federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3); and

(2) The balance of a bank's allowance for loan and lease losses not included in the bank's Tier 2 capital for purposes of the calculation of risk-based capital by the appropriate Federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3).

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 14, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–9737 Filed 4–19–95; 8:45 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: National Credit Union Administration (NCUA) Rules and Regulations prohibit officials and certain employees of federally insured credit unions from receiving either incentive pay or outside compensation for certain activities related to credit union lending. The regulations are ambiguous in places and have proved difficult to interpret. Further, the regulations may be too restrictive in some instances and too broad in others. The NCUA Board is proposing to amend the regulations to make them clearer, to authorize lending-related compensation in certain situations where it is currently prohibited, and to prohibit it in other situations. If amended as proposed, it should be easier for credit unions to determine when incentives may be paid and easier for officials and employees to determine whether they may accept compensation for outside activities.

DATES: Comments must be postmarked or posted on NCUA's electronic bulletin board by June 19, 1995.

ADDRESSES: Mail comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Send comments to Ms. Baker via the bulletin board by dialing 703–518–6480.

FOR FURTHER INFORMATION CONTACT: Lisa Henderson, Staff Attorney, (703) 518–6561, at the above address.

SUPPLEMENTARY INFORMATION:

Background

Section 701.21(c)(8) of the NCUA Rules and Regulations, 12 CFR 701.21(c)(8), prohibits federal credit unions from making a loan if, either directly or indirectly, any commission, fee, or other compensation is to be received by the credit union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan. However, non-commission salary may be paid to employees. As a condition of federal insurance pursuant to Section 741.3(a) of the Regulations, 12 CFR 741.3(a), the prohibition applies to federally insured state-chartered credit unions. The purpose of Section 701.21(c)(8) is to ensure that an individual who is in a position of authority in a credit union does not put self-interest ahead of the credit union's interest in making good loans and providing good service to its members. The provision prohibits compensation from third parties and from the credit union itself, in the form of commissions, incentive pay, or bonuses.

Under the current regulation, a ''loan officer'' is an individual who has the authority to approve a loan. A loan officer may or may not be involved in taking and processing loan applications. ''Underwriting the loan'' means approving or disapproving it. Thus, an individual who has any part in approving a loan is prohibited for receiving incentive pay in connection with that loan. An individual who is involved in processing a loan, but who has no role in its approval or disapproval, may receive incentive pay in connection with the loan.

The prohibition against making a loan if a commission or fee is to be received by a loan officer in connection with insuring the loan means, for example, that the individual who has the authority to approve a loan may not receive an incentive for selling credit life or disability insurance on it.

Noting that credit union management had become increasingly interested in implementing lending-related incentive pay programs, the NCUA Board, on March 9, 1994, issued a Request for Comment on whether § 701.21(c)(8) should be amended to permit loan officers and/or senior management to receive incentive pay for underwriting and insuring loans, 59 FR 11937 (March 15, 1994). A total of 252 comments was received, 177 of which expressed support for allowing incentive pay for loan officers. Most of the latter suggested that incentive pay be permitted only with controls in place.

A number of commenters described the success their credit unions had had with incentive programs involving employees other than loan officers; they argued that even greater benefits would accrue from paying incentives to loan officers. Most of these programs seem to have been implemented in the past few years, however, and some of the information submitted to the Board raises questions about whether they will be successful in the long run.

For example, information submitted by one commenter cites research which has shown that incentive programs can fail in the long term because employees become preoccupied with meeting goals and fail to carry out their normal routines. When management sets a specific goal, and offers a reward for meeting it, work or problems that do not relate to that goal are ignored. Cooperative spirit between people often diminishes because each has different goals and becomes wrapped up in his or her own work. Incentive pay can actually work to undermine an employee's internal motivation to perform well, as employees end up working for the incentive rather than the satisfaction of the work itself. Employees can also be demoralized by the underlying assumption that they are not working hard and need incentives to perform.

One credit union commenter learned about the risks of incentive programs the hard way. He reported that his credit union's incentive program for loan officers was unsuccessful for the following reasons: (1) Despite controls being in place, some loan officers exceed their authority in approving