4. Conclusion

The Commission has decided to make no changes to the regulation at 11 CFR 9038.2(b), which currently requires publicly funded Presidential primary campaigns to make repayments on the basis of exceeding the Congressionally-mandated spending limits. The current rule is not being changed at this time because there is no consensus in favor of changing the regulation.

Dated: March 17, 2000.

Darryl R. Wold,

Chairman, Federal Election Commission.

[FR Doc. 00–7108 Filed 3–21–00; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 742

Regulatory Flexibility and Exemption Program

AGENCY: National Credit Union Administration (NCUA).

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: NCUA is soliciting public comment on whether, and under what circumstances, NCUA should adopt a regulation that would permit credit unions with advanced levels of net worth and consistently strong CAMEL ratings to be exempt, in whole or in part, from certain NCUA regulations that are not specifically required by statute. Comments are also requested on whether the adoption of such a regulation would reduce regulatory burden without adversely affecting safety and soundness. Information from interested parties will assist NCUA in determining whether and in what form to issue a proposed rule on regulatory flexibility.

DATES: The NCUA must receive comments on or before May 22, 2000.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or you may fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540 or Herb Yolles, Deputy Director, Office of Examination and Insurance, at the above address or telephone: (703) 518–6360.

SUPPLEMENTARY INFORMATION:

A. Background

NCUA is considering a policy for exempting qualifying credit unions from certain regulatory provisions. The regulatory provisions under consideration are those which are not specifically required by statute and the exemption from which would permit these credit unions greater flexibility in managing their operations. NCUA staff has reviewed agency regulations and has listed, in this advanced notice of proposed rulemaking (ANPR), those regulations which the NCUA Board believes may meet these criteria. The purpose of this ANPR is to elicit public comment on whether the proposed exemptions would in fact be of such benefit and to find out if there are any other regulations or NCUA requirements which credit unions believe should be considered in this proposal.

The NCUA Board believes that safe and sound credit unions with a proven record of effective risk management, as demonstrated by advanced levels of net worth and consistently high CAMEL ratings, may be reasonable candidates for greater regulatory flexibility from certain NCUA regulations which are not specifically required by statute and which have minimal safety and soundness ramifications when applied to federal credit unions with proven risk management records.

In considering this advance notice of proposed rulemaking, the NCUA Board did not include any current regulation which is statutorily imposed and therefore must continue to be implemented by NCUA in a form consistent with the manner specified for implementation when passed by Congress. Likewise, the NCUA Board did not consider a number of other regulations which, although not specifically required by statute, are nonetheless rooted in overriding concern for the overall safety and soundness of the credit union system and, therefore, would not be appropriate for inclusion in a formal regulatory flexibility proposal.

However, internal agency research and evaluation has produced examples of certain specified regulatory restrictions that are not specifically required by statute and may be unnecessary to apply equally to all credit unions based on their individual safety and soundness circumstances, because the regulations, although appropriate for some credit unions, have limited safety and soundness ramifications when applied to federal credit unions with advanced levels of net worth and ongoing strong management performance verified through the examination process and resulting high CAMEL ratings.

The NCUA Board is interested in receiving comments on whether credit unions with a proven track record of favorable performance should be allowed additional regulatory flexibility since their demonstrated ability mitigates the predominance of what limited safety and soundness concerns, if any, might arise from a reduction of certain specified regulatory requirements. Examples of mitigating factors include, but are not limited to, additional capital, strong management and consistent earnings. It is believed that a healthy risk management infrastructure strengthens capital adequacy and diminishes risk to the National Credit Union Share Insurance Fund (NCUSIF).

The NCUA Board is also interested in receiving comment on whether a flexible regulatory approach which results in the removal of selected regulatory obstacles for those credit unions with strong records of safety and soundness and effective risk management will encourage them to strive to maintain and enhance those levels of financial performance as well as to better enable them to remain competitive in the financial marketplace, foster innovation in member service and extend credit to the underserved.

The NCUA Board is interested in whether providing additional flexibility in selected regulatory requirements to credit unions that meet RegFlex triggers might result in a reduction in service within a credit union's field of membership for fear that with additional risk taking, delinquencies might increase and jeopardize the credit union maintaining their CAMEL 1 and 2 ratings.

Would establishing this special class of credit unions to receive different regulatory treatment provide a competitive advantage to RegFlex credit unions over non RegFlex eligible credit unions.

The proposal the NCUA Board is considering would involve an exemption process for qualifying federal credit unions, rather than a regulatory forbearance program available to all federal credit unions. Those federal credit unions that qualify must demonstrate, based on their CAMEL ratings and strong capital positions, that they are capable of managing the additional risks that these regulatory flexibilities may pose. NCUA believes that the proposed qualification and exemption process will effectively

mitigate any additional risk to the NCUSIF.

B. The Regulatory Flexibility (RegFlex) Proposal

The first of the two criteria for eligibility under this proposal, for which comments are requested, is that credit unions must have been rated as CAMEL code 1 or code 2 for two consecutive exams (with a Camel code 1 or 2 in management). NCUA has a decreased safety and soundness concern for these credit unions because it has been suggested that such credit unions are characterized by:

- Performance that consistently provides for safe and sound operations;
- Positive historical and projected key performance measures; and
- The ability to withstand business fluctuations.

The second criterion for this proposal is that a credit union must have net worth of 9% or greater, and is determined to be well-capitalized under Part 702 of NCUA's regulations. It has been suggested that generally, this indicates that a credit union has both demonstrated the ability to build capital and has accumulated at least a 200-basis point cushion over the minimum level to be classified as well-capitalized under the NCUA's recently adopted prompt corrective action regulation. This cushion of 200 basis points or greater represents a significant decrease in risk to both the credit union and the NCUSIF. The NCUA Board is also requesting comment on whether the capital trigger for complex credit unions should be different and if so, what criteria should be used.

It is assumed that credit unions which qualify for this proposal clearly represent a reduced safety and soundness risk. They have a proven track record that mitigates safety and soundness concerns and have capital levels that decrease any minimal additional risk this regulatory flexibility proposal may present. Is this an assumption upon which the RegFlex proposal should be based?

For the reasons discussed above, the NCUA Board is requesting comment on a proposed regulation that would exempt credit unions that have maintained a CAMEL 1 or 2 and a net worth of 9% for two consecutive exams from all or part of certain NCUA regulations. The NCUA Board is requesting comment on two approaches for granting this authority. The first option is that any credit union that meets this criteria will automatically be exempt from all or specified parts of the identified regulatory provisions in the proposed RegFlex regulation. All of the affected NCUA regulations or specific provisions of regulations would be set forth in the RegFlex regulation. The second option is for a formal approval and designation process by the region before the credit union could engage in these RegFlex activities. As part of the application process the credit union would need to note if there had been any recent changes in senior management. In addition, if a credit union is approved for RegFlex it would have to notify the region whenever there is a subsequent change in senior management or a material financial event that impacts capital.

It is proposed that a regional director, in his or her sole discretion, for substantive and documented safety and soundness reasons, would be authorized to revoke the RegFlex authority in whole or in part at any time and without advance notice. In such cases, the credit union would be able to appeal such a determination to NCUA's Supervisory Review Committee within 60 days of the regional director's determination. NCUA realizes that if this proposal is adopted it will have to modify the interpretive ruling and policy statement regarding the Supervisory Review Committee.

C. Potential Regulations NCUA Has Initially Identified as Part of the Proposal

(1) Section 701.36—FCU Ownership of Fixed Assets

NCUA originally proposed a fixed asset rule in 1979. The regulation was intended to ensure that the officials of FCUs had considered all relevant factors prior to committing large sums of members' funds to the acquisition of fixed assets. The final regulation attempted to accomplish this by requiring credit unions to seek the written approval of NCUA before investing in fixed assets in excess of 5% of their assets. The approval process was established so that the form and content of the request would contain sufficient information to establish the need for and the feasibility of the request and to determine the impact of the proposal on the credit union's operations. When the rule was revised in 1984, NCUA cited some ongoing concerns at that time about potential credit union losses if credit unions with insufficient capital were to invest in fixed assets disproportionate to their restricted capital position. Therefore, the requirement that a credit union receive NCUA approval if it wishes to invest in an aggregate total of fixed assets that exceeds 5 percent of shares and retained earnings was incorporated in the 1984 revision.

Since that time losses have been negligible and credit union capital positions have increased from an average capital ratio of 6.8% in December 1984 to 11.7% in December 1999. However, many credit unions have been required to seek NCUA approval to exceed the regulatory limit in order to more effectively serve their field of membership or to extend the level of service to underserved areas. Such approvals have been granted on a regular basis to credit unions with strong capital ratios and proven records of risk management. Although often granted to credit unions who are willing to go through the time-consuming advance approval process, it is likely that some credit unions may have been deterred from extending their service to some within their field of membership or to underserved areas because of this advance waiver regulatory requirement. Since capital position and CAMEL rating are among the key indices used to evaluate a credit union's application in making such an advance waiver request, it seems that this regulatory requirement would be an ideal candidate to streamline for those credit unions who meet the capital and CAMEL based RegFlex criteria. It is the view of the NCUA Board that some exemption from the fixed asset rule for credit unions who have proven their ability to adequately manage a higher level of investment in fixed assets would serve to better enable those credit unions to serve their members more effectively and extend service to underserved areas.

Should a credit union not have to apply for a waiver provided for in Section 701.36(c) if they meet the requirements of the RegFlex proposal? Should a credit union's investment in fixed assets have no regulatory cap? Should credit unions as a sound business practice have in their written business plan their own fixed asset limit? As an impact of such an exemption, it should be noted that, some of the restrictions on purchasing a building and leasing a portion of the property, until it was fully utilized by the credit union, would also be lifted. However, this would not authorize a credit union to engage in long-term commercial leasing. For safety and soundness reasons and legal reasons the credit union would still need to have a reasonable plan to fully utilize the property. Is this a reasonable application of the RegFlex exemption?

(2) Part 703—Investment and Deposit Activities

NCUA is considering whether to include various sections of Part 703, Investment and Deposit Activities, in

the proposal. Part 703, effective January 1, 1998, recognized that advances in modeling and measuring risk factors permitted institutions to better understand and manage their risk profile. NCUA shifted the regulatory focus from emphasis on specific investments to the characteristics that affect risk management of investment activity, including credit union board and staff understanding of the potential risk associated with the credit union's investment activities. The rule established parameters for risk assessment and permits credit union operating flexibility within those parameters. At the same time, it minimized the regulatory burden on those credit unions that choose to maintain a simple portfolio of investments.

In October, 1998, the NCUA Board approved, as Interpretive Ruling and Policy Statement No. 98–2, the FFIEC Policy Statement on Investment Securities and End-User Derivative Activities. This statement emphasizes sound business practices for managing the risks of investment activities. Board and senior management oversight is an integral part of an effective risk management program. An effective risk management system also includes: (1) Policies, procedures, and limits; (2) the identification, measurement, and reporting of risk exposures; and (3) a system of internal controls. This policy statement eliminated the FFIEC High Risk Security Test for CMOs as a supervision tool and recognized that institutions should be valuing the price sensitivity of their investments prior to purchase and on an ongoing basis.

Technology continues to improve a credit union's ability to measure risk. The regulatory focus continues to migrate toward risk assessment of internal controls and evaluation of management processes. Those institutions that have developed sound business practices in their risk management processes can assume a higher risk profile. The NCUA Board is requesting comment on whether the investment requirements should be modified for credit unions that meet the criteria set forth in this proposal and demonstrate the ability to manage the increased risk, or should Part 703 be modified to allow all credit unions the authority to have increased flexibility, or should NCUA make no regulatory changes?

Section 703.90 requires quarterly stress testing (300 basis point shock) of individual complex securities if the total sum of complex securities, as defined by the investment regulation, exceed net capital. For those credit unions that measure the impact of interest rate changes on their entire balance sheet, should NCUA waive or modify this regulatory requirement?

Section 703.40(c)(6) limits the discretionary delegation of investments to third parties to 100 percent of net capital. Should NCUA waive or modify the 100 percent limitation and permit credit unions to set the limit by board policy for credit unions?

Section 703.110(d) limits zero coupon investments to under 10 years from settlement date. Should NCUA extend this maturity? If so, what limitations should be set, if any? How should credit unions assess this risk?

Section 703.110 prohibits stripped, mortgage-backed securities, residual interests in CMOs/REMICS, mortgage servicing rights, commercial mortgage-related securities, or small business related securities. NCUA is interested in comments on whether this section should be part of the proposal or otherwise modified. If so, would these vehicles play an active role in your portfolio? Are there specific risks that need to be addressed? If authorized, should NCUA limit this activity in relation to capital?

The investment area is of particular concern for safety and soundness reasons. If the eligibility for expanded investment authority is limited to credit unions meeting the RegFlex criteria, should that authority be automatic or should an application and approval process be required of those credit unions which desire such expanded investment authority? Are there any other provisions of Part 703 that NCUA should consider for this proposal?

(3) Section 701.25—Charitable Donations

The original requirements on charitable donations were set forth in Interpretive Ruling and Policy Statement (IRPS) 79–6. The original requirements were imposed to provide guidance regarding charitable donations since there were many questions about what was permissible. In 1999, the NCUA Board incorporated the IRPS into NCUA's regulation and substantially deregulated the requirements. The current rule limits recipients of charitable donations to organizations located in or conducting activities in a community in which the FCU has a place of business. Furthermore, the board of directors must approve charitable contributions, and the approval must be based on a determination by the board of directors that the contributions are in the best interests of the federal credit union and are reasonable given the size and financial condition of the federal credit union. Should credit unions meeting the RegFlex criteria be completely exempt from the requirements of this regulation?

(4) Section 722.3(a)(1)—Appraisals

The appraisal regulation was mandated for all federal financial institution regulatory agencies by FIRREA in 1989. NCUA adopted its final regulation in 1990. NCUA's current regulation is more restrictive than the other financial institution regulators because of the unique nature of credit unions. However, experience has demonstrated that certain credit unions are able to adequately manage a higher degree of risk in making loans without an appraisal. Therefore, should credit unions meeting the RegFlex criteria be allowed to increase the dollar threshold from $100,000 to $250,000 for when an appraisal is required? Such an increase would be consistent with the regulatory authority set forth by the appropriate agencies regulating banks and thrifts. Furthermore, the threshold for an appraisal for a member business loan would be increased to $250,000 if it involves real estate. However, in both loan categories, the loan must still be supported by a written estimate of market value as set forth in Section 723.3(d) of NCUA's regulation. Finally, are there any other provisions in Part 722 that NCUA should consider for this proposal?

(5) Section 701.32 (b) and (c)—Payment on Shares by Public Unit and Nonmembers

The limitation on public unit and nonmember shares was adopted by the NCUA Board in 1989 because of abuses by certain credit unions and significant losses suffered by the NCUSIF. In 1994, the NCUA Board increased the dollar thresholds in these types of shares. The current regulation limits the maximum amount of all public unit and nonmember shares to 20% of total shares of the federal credit union or $1.5 million, whichever is greater. Recent experience indicates that certain credit unions may be able to adequately manage the increased risks posed by these type of shares. Therefore, should credit unions meeting the RegFlex criteria be exempt from the regulatory restrictions on public unit funds and nonmember shares (nonmember shares may be accepted by low-income credit unions)?

(6) Section 701.23—Purchase, Sale and Pledge of Eligible Obligations

The NCUA Board seeks comment on whether it should permit credit unions

that meet the RegFlex criteria to purchase any auto loan, credit card loan, member business loan, student loan or mortgage loan from any other credit union as long as they are loans the purchasing credit union is empowered to grant. If authorized, should the purchasing credit union be permitted to keep these loans in their portfolios? Should this change be applicable to all credit unions? Finally, are there any other issues in managing a loan portfolio that should be addressed in this section or section 701.21?

D. Request for Comment on Related Issues

Should the asset base of a credit union which expands into a low-income or underserved area be frozen for the calculation of the operating fee. If so, for what amount of time? Should there be some minimum threshold on the size of the underserved area in order for the credit union to be eligible for this treatment? If the credit union subsequently adds another underserved area, after the specified time, to its field of membership, should its assets be readjusted and frozen for another period of time in the calculation for the credit union's operating fee?

The NCUA Board also seeks comment on whether the regulatory flexibility outlined in this proposal should be used as an incentive to encourage eligible credit unions to continue serving low-income individuals within their field of membership or to add an underserved area or low-income groups to their field of membership. This could be accomplished by including low-income or underserved area as one of the basic eligibility criteria under the proposal. The NCUA Board is also requesting comment on whether there are any other incentives or areas of regulatory flexibility that may be granted to federal credit unions to encourage them to expand into underserved areas.

The NCUA Board recently issued an advance notice of proposed rulemaking at the November Board meeting. 64 FR 66413 (November 26, 1999). The Board stated that it is considering expanding its view of the incidental powers of a federal credit union. *Id.* at 66414. The Board may consider it necessary to limit or restrict some activities that may be permissible as an incidental power because of safety and soundness concerns. In connection with RegFlex, the Board believes it may be appropriate to permit federal credit unions meeting the RegFlex criteria to engage in incidental power activities without the restrictions that would be generally applicable to other federal credit unions. However, since a proposed rule for Part 721 is presently scheduled to be issued this summer, further details on how the revised rule may be incorporated, if appropriate, into the RegFlex approach will be set forth in the proposed RegFlex rule.

Proposed Part 714 on leasing was issued by the NCUA Board in the fall of 1999. 64 FR 55866 (October 15, 1999). The NCUA Board expects a final rule will be presented at the May Board meeting. In connection with RegFlex, the Board requests comment on whether it may be appropriate to permit federal credit unions meeting the RegFlex criteria to engage in certain leasing activities without the restrictions that would be generally applicable to other federal credit unions but that are not legally required.

The NCUA Board is also requesting comment on what changes, if any, might be considered to NCUA's supervision and examination program for credit unions meeting the RegFlex criteria. Possible areas of consideration are a different type of exam for RegFlex credit unions or a revised examination schedule for RegFlex credit unions.

What guidance should the NCUA Board provide to examiners to ensure that credit unions are not discouraged from responsibly managing additional risk in an effort to provide credit to a broader range of its members? For instance, should peer comparisons be dropped? Should delinquency and charge-off rates be more liberally approached during examinations? If so, is there a numerical rate that should be considered acceptable?

The NCUA Board is also requesting comment on any other regulatory or supervisory issues that might be good candidates for RegFlex. Please do not comment on regulations which are statutory or provisions that are mandated by statutory requirements. These cannot and will not be included in any final RegFlex regulation approved by the NCUA Board. Among others, examples of such statutory regulations and provisions include Truth-In-Savings (Part 707), the aggregate loan limit in the member business loan rule (Part 723) or the 1% loan and investment limit in the CUSO rule (Part 712). Furthermore, please do not comment on regulations that NCUA does not issue or control such as Regulation B or Regulation Z which are issued by the Board of Governors of the Federal Reserve System.

By the National Credit Union Administration Board on March 16, 2000.

Becky Baker,

Secretary of the Board.

[FR Doc. 00–7040 Filed 3–21–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–02–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900C, 1900C (C–12J), and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Company (Raytheon) Beech Models 1900C, 1900C (C–12J), and 1900D airplanes. The proposed AD would require you to install a spiral wrap around the wing fuel quantity wiring harness and apply an adhesive sealant to the Wiggins couplings on the internal fuel tank wiring carry-through conduit. The proposed AD results from reports of chafed or shorted wing fuel quantity harness wires on the affected airplanes. These occurrences were found during regular maintenance inspections. The actions specified by the proposed AD are intended to:

—prevent chafing between the wing fuel quantity wiring harness and the internal wing harness supports at each wing rib location, which could cause the fuel quantity indication to become unreliable. This could leave the flight crew without an indication of the amount of fuel the airplane has during flight; and

—prevent fuel from leaking through the wiring carry-through conduit and into the wing tip or wheel well area, which could lead to a fire or explosion.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this rule on or before May 19, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE–02–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.