

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 745

#### Share Insurance and Appendix

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The proposed rule will amend regulations on the payment of share insurance and appeals to provide authority for the liquidating agent to pay dividends earned or accrued, but not posted to share accounts. Also, the proposed rule will amend those regulations to reference other regulations on the construction of time limits when computing time.

**DATES:** Comments must be postmarked or posted on the NCUA electronic bulletin board by September 10, 1996.

**ADDRESSES:** Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration Board, 1775 Duke Street, Alexandria, Virginia 22314-3428.

**FOR FURTHER INFORMATION CONTACT:** Jerry L. Courson, Special Assistant to the President, National Credit Union Administration, Asset Liquidation Management Center, 4807 Spicewood Springs Road, Suite 5100, Austin, Texas 78759 or telephone (512) 795-0999 or Allan H. Meltzer, Associate General Counsel, National Credit Union Administration, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone (703) 518-6540.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The NCUA Board seeks comments on the proposed changes to Part 745 of the NCUA Rules and Regulations.

##### Background

Subpart B of Part 745 of the NCUA Rules and Regulations deals with the payment of share insurance and appeals. Specifically, Section 745.200(b)

provides that in determining the amount of share insurance, no dividends shall be paid on shares if sufficient undivided and current earnings are not available for such purpose. However, dividends accrued and posted to share accounts for prior accounting periods are considered as principal (regardless of earnings).

In a small number of liquidations, it has been necessary to reconstruct and correct the credit union records. In these liquidation cases, the reconstruction process disclosed situations where dividends were posted to some member accounts and not posted to other member accounts. Under the current regulation, to properly reconstruct these accounts and the dividends that were miscalculated or omitted, the liquidating agent obtained authority from the NCUA Board.

Since the current rule was adopted in 1990, only a small number of the 352 credit unions placed into involuntary liquidation have involved dividend issues. In most cases, the records are updated and dividends are posted before liquidation. Based on the current volume, if all cases involving unposted dividends were referred to the NCUA Board, the workload would be excessive. However, the workload of the liquidating agent would increase, because it would be necessary to audit or review each member account twice, and the additional workload would result in a delay in actual payment to the members.

The liquidation process would be more efficient if a rule is adopted that permits recording unposted dividends. This option also provides for a more equitable treatment of all members. The proposed rule provides discretion for the liquidating agent to correct share accounts by recording dividend payments that were not posted or were incorrectly posted by credit union personnel due to fraud, embezzlement, or accounting errors. Under the proposed rule, dividends not earned in the normal course of business, would not be included in the determination of insured shares. In addition, the proposed rule provides flexibility in dealing with sufficient earnings. Under the current regulation, dividend payments cannot be considered as principal for insurance purposes if sufficient earnings were not available. The proposed rule is silent on sufficient

earnings, but a credit union's earnings could be a factor used by the liquidating agent in determining insured shares.

Under the proposed rule, decisions on unposted dividends can be made without specific NCUA Board action.

In addition to amending the rule to deal with unposted dividends, the proposed rule making also amends Section 745.200(d) to reference Section 747.12(a) of the NCUA Rules and Regulations when computing time. The current regulation references Section 747.119, and this section no longer exists.

#### Regulatory Procedures

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe the significant economic impact any proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). This proposal deals with the payment of share insurance and does not directly impact operating credit unions. It does not add any additional requirements or burden. The proposal could provide an additional level of confidence for the credit union member. Accordingly, the NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Act analysis is not required.

##### *Paperwork Reduction Act*

The proposed rule does not impose any new paperwork requirements.

##### *Executive Order 12612*

The proposed changes to Section 745.200 will apply to both federal credit unions and federally-insured, state chartered credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined that the proposed amendment will not have 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. Further, the proposed rule will not preempt provisions of state law or regulation.

## List of Subjects in 12 CFR Part 745

Administrative practice and procedure, Bank deposit insurance, Claims, Credit unions.

By the National Credit Union Administration Board on July 9, 1996.  
Becky Baker,  
*Secretary of the Board.*

Accordingly, NCUA proposes to amend its regulation as follows:

**PART 745—SHARE INSURANCE AND APPENDIX**

1. The authority citation for part 745 continues to read as follows:

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

2. Section 745.200 is amended by revising paragraphs (b) and (d) to read as follows:

**§ 745.200 General.**

\* \* \* \* \*

(b) *Amount of insurance.* The amount of insurance on an insured account shall be determined in accordance with the provisions of subpart A of this part and the Federal Credit Union Act. For the purpose of determining insurance coverage, dividends earned in the ordinary course of business and posted to share accounts for any prior accounting or dividend period shall be deemed to be principal under this rule. Dividends earned or accrued in the ordinary course of business, but not posted to share accounts, may be paid at the discretion of the liquidating agent. In making such determination, the liquidating agent will take into consideration whether the failure to post dividends earned or accrued was due to the fraud, embezzlement or accounting errors of credit union personnel. The liquidating agent may require an accountholder to submit documentation supporting any claim for unposted dividends not otherwise evidenced in the credit union records. However, in no event will dividend amounts be considered as principal for insurance purposes pursuant to this section if not consistent with the amounts paid on similar classes of shares.

\* \* \* \* \*

(d) *Computing time.* In computing any period of time prescribed by this subpart, the provisions of § 747.12(a) shall apply.

[FR Doc. 96-17783 Filed 7-11-96; 8:45 am]

BILLING CODE 7535-01-M

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

[Docket No. 94-NM-222-AD]

RIN 2120-AA64

**Airworthiness Directives; Airbus Model A310 and A300-600 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Model A310 and A300-600 series airplanes, that would have required repetitive Tap Test inspections to detect debonding of the elevator skins, and corrective actions, if necessary. That proposal was prompted by a report that a debonded area of the upper skin of an elevator had been discovered during a visual inspection. This action revises the proposed rule by replacing the Tap Test inspections with inspections using a thermographic technique. This action also provides for replacement of the elevators with new or modified elevators, which, if accomplished, terminates the requirements of the AD. The actions specified by this proposed AD are intended to prevent the presence of water in the elevator, which could cause debonding of the elevator skins and, consequently, could adversely affect the structural integrity of the elevator.

**DATES:** Comments must be received by August 14, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-222-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Charles Huber, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate,

1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2589; fax (206) 227-1149.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-NM-222-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-222-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Airbus Model A310 and A300-600 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the Federal Register on February 8, 1995 (60 FR 7485). That NPRM would have required repetitive Tap Test inspections to detect debonding of the elevator skins, and corrective actions, if necessary. Additionally, that NPRM would have required repetitive thermographic inspections of the elevator to detect trapped water if certain amounts of debonding are detected. That NPRM was prompted by