

Department's Commodity Credit Corporation, the Commodity Credit Corporation, or any entity determined by the Commodity Credit Corporation shall deduct and remit to the Board, from the proceeds of the loan paid to the producer, one (1%) percent of the loan value of the peanuts as determined by the warehouse receipt accompanying such peanuts, no more than 60 days after the last day of the month in which the peanuts were placed under a marketing assistance loan.

(e) If a producer places peanuts under a marketing assistance loan and subsequently redeems and sells such peanuts at a price greater than the loan amount, the producer shall pay the difference between the sales price and the loan value of the peanuts multiplied by one (1%) percent to the Board within sixty (60) days after the final day of the loan availability period.

(f) All assessments collected under this section are to be used for expenses and expenditures pursuant to this Order and for the establishment of an operating reserve as prescribed in the Order.

(g) The Board shall impose a late payment charge on any person who fails to remit to the Board the total amount for which the person is liable on or before the payment due date established under this section. The late payment charge will be in the form of interest on the outstanding portion of any amount for which the person is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(h) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(i) The Board may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

(j) The assessment rate may not be increased unless the new rate is approved by a referendum among eligible producers.

Dated: September 15, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

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## **NATIONAL CREDIT UNION ADMINISTRATION**

### **12 CFR Part 712**

#### **Audit Requirement for Credit Union Service Organizations**

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

**ACTION:** Final rule.

**SUMMARY:** NCUA is amending its rule concerning credit union service organizations (CUSOs) to provide that a wholly owned CUSO need not obtain its own annual financial statement audit from a certified public accountant if it is included in the annual consolidated audit of the federal credit union (FCU) that is its parent. The amendment will reduce regulatory burden and conform the regulation with agency practice, which since 1997 has been to view credit unions with wholly owned CUSOs in compliance with the rule if the parent FCU has obtained an annual financial statement audit on a consolidated basis.

**DATES:** This rule is effective on October 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ross P. Kendall, Staff Attorney, Office of General Counsel, at telephone (703) 518-6540.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On March 17, 2005, the NCUA Board requested comment on a proposed change to part 712 of its regulations to provide that a CUSO that is wholly owned need not secure its own public accounting firm financial statement audit if it is included on a consolidated basis in the audit of the FCU itself. 70 FR 14579 (March 23, 2005). The proposal recognized that, where a CUSO is controlled by an FCU by virtue of its ownership of one hundred percent of its voting shares, generally accepted accounting principles (GAAP) call for the preparation of financial statements of both the FCU and the CUSO on a consolidated basis.

As noted in the preamble to the proposed rule, consolidated financial statements present the results of operations, financial position, and cash flows of a parent and its subsidiaries as if the group were a single enterprise. Under GAAP, consolidated financial statements generally include enterprises in which the parent has a controlling financial interest, usually, a majority voting interest. There is a presumption that consolidated statements are more meaningful than separate statements and are usually necessary for a fair

presentation when one of the enterprises in a group directly or indirectly has a controlling financial interest in another.

#### **Summary of Comments**

NCUA received twelve comments on the proposal, eleven of which were fully supportive of the amendment. These commenters noted several bases for their support, including efficiency, flexibility and cost savings, as well as the generally more thorough and accurate financial picture that emerges when the operations of corporate parents and subsidiaries are included in a consolidated financial statement. The one commenter that did not offer express support did not indicate opposition to the proposal, but rather raised two questions about the operation of the rule in specified circumstances.

In the preamble to the proposed rule, the Board specifically recognized that GAAP would allow for consolidated financial reporting in cases that involve a CUSO that is majority owned. The Board noted, however, that it was not recommending extension of the rule to those cases, and indicated its belief that the proposal would ensure that prospective minority investors in CUSOs would have maximum disclosure of potential risks to their investment. Nine commenters recommended that NCUA extend the exemption for a separate audit to majority owned CUSOs, instead of limiting it to cases of one hundred percent ownership. Two of these commenters conditioned their support for this expanded treatment on including in the rule a safeguard to allow a minority owner to request the CUSO to obtain a separate opinion audit.

The Board remains convinced that the original proposal, with its limited application only to cases involving one hundred percent ownership of the CUSO, is the best course. Absent a provision in the rule, a minority investor could encounter some difficulty in asserting its right to a separate opinion audit. The Board notes, in this respect, that its concern for the safety and soundness of credit unions, rather than assuring that its rules conform in all respects to what may be formally permissible under GAAP, is of paramount importance. Accordingly, NCUA is adopting the proposed amendments as a final rule without change.

The Board notes that the rule change extends to cases involving CUSO subsidiaries that are also wholly owned. While cases of second tier CUSOs are relatively rare, the principles of the rule

would apply. Thus, where the second tier CUSO is itself wholly owned by a wholly owned first tier CUSO, use of a consolidated opinion audit capturing both levels would be permissible.

**Regulatory Procedures**

*Regulatory Flexibility Act*

The final rule relieves a CUSO that is wholly owned from having to secure a separate opinion audit of its books, if it is included in the annual consolidated opinion audit of the credit union that is its parent. The Board has determined and certifies that the rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

*Paperwork Reduction Act*

NCUA has determined that the proposed regulation does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

*Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The final rule will apply only to federally-chartered credit unions. It will not have substantial direct effects 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. NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

*The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105-277, 112 Stat. 2681 (1998).

*Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A

reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

**List of Subjects in 12 CFR Part 712**

Administrative practices and procedure, Credit, Credit unions, Investments, Reporting and record keeping requirements.

By the National Credit Union Administration Board on September 15, 2005.

**Mary F. Rupp,**  
*Secretary of the Board.*

- For the reasons stated in the preamble, NCUA amends 12 CFR part 712 as follows:

**PART 712—CREDIT UNION SERVICE ORGANIZATIONS (CUSOs)**

- 1. The authority citation for part 712 continues to read as follows:

**Authority:** 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

- 2. Amend § 712.3 by revising paragraph (d)(2) to read as follows:

**§ 712.3 What are the characteristics of and what requirements apply to CUSOs?**

\* \* \* \* \*

(d) \* \* \*

(2) Prepare quarterly financial statements and obtain an annual financial statement audit of its financial statements by a licensed certified public accountant in accordance with generally accepted auditing standards. A wholly owned CUSO is not required to obtain a separate annual financial statement audit if it is included in the annual consolidated financial statement audit of the credit union that is its parent; and

\* \* \* \* \*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2005-21189; Directorate Identifier 2005-NM-055-AD; Amendment 39-14279; AD 2005-19-14]

RIN 2120-AA64

**Airworthiness Directives; Airbus Model A318-100, A319-100, A320-200, A321-100, and A321-200 Series Airplanes; and Model A320-111 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A318-100, A319-100, A320-200, A321-100, and A321-200 series airplanes; and Model A320-111 airplanes. This AD requires modification of the electrical bonding of all structures and systems installed inside the center fuel tank. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent electrical arcing in the center fuel tank due to inadequate bonding, which could result in an explosion of the center fuel tank and consequent loss of the airplane.

**DATES:** This AD becomes effective October 26, 2005.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of October 26, 2005.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL-401, Washington, DC.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Tim Dulin, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2141; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Examining the Docket**

You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except