the report has not signed the report, the name and position title of the individual and the reasons such individual is unable to, or refuses to, sign must be disclosed in the report. All reports must be dated and signed on behalf of the Funding Corporation by:

(1) The chief executive officer (CEO);

(2) The officer in charge of preparing financial statements; and

(3) A board member formally designated by action of the board to certify reports of condition and performance on behalf of individual board members.

(c) *Certification of financial accuracy.* The report must be certified as financially accurate by the signatories to the report. If any signatory is unable to, or refuses to, certify the report, the institution must disclose the individual's name and position title and the reason(s) such individual is unable or refuses to certify the report. At a minimum, the certification must include a statement that:

(1) The signatories have reviewed the report,

(2) The report has been prepared in accordance with all applicable statutory or regulatory requirements, and

(3) The information is true, accurate, and complete to the best of signatories' knowledge and belief.

(d) *Management assessment of internal control over financial reporting.* (1) Annual reports must include a report by the Funding Corporation's management assessing the effectiveness of the internal control over financial reporting for the System-wide report to investors. The assessment must be conducted during the reporting period and be reported to the Funding Corporation's board of directors. Quarterly and annual reports must disclose any material change(s) in the internal control over financial reporting occurring during the reporting period.

(2) The Funding Corporation must require its external auditor to review, attest, and report on management's assessment of internal control over financial reporting. The resulting attestation report must accompany management's assessment and be included in the annual report.

■ 25. Amend § 630.6 by revising paragraph (a)(4)(ii) to read as follows:

§ 630.6 Funding Corporation committees.

(a) * * *

(4) * * *

(ii) *External auditors.* The external auditor must report directly to the SAC. The SAC must:

(A) Determine the appointment, compensation, and retention of external auditors issuing System-wide audit reports;

(B) Review the external auditor's work;

(C) Give prior approval for any non-audit services performed by the external auditor, except the audit committee may not approve those non-audit services specifically prohibited by FCA regulation; and

(D) Comply with the auditor independence provisions of part 621 of this chapter.

* * * * *

Subpart B—Annual Report to Investors

■ 26. Amend § 630.20 as follows:

■ a. Remove paragraph (b)(3);

■ b. Remove paragraph (m)(2)(iii);

■ c. Redesignate paragraphs (m)(2)(iv) through (vi) as paragraphs (m)(2)(iii) through (v); and

■ d. Revise the introductory text, paragraphs (f) introductory text, (h)(1), (i), (k), and (l) introductory text to read as follows:

§ 630.20 Contents of the annual report to investors.

The annual report must contain the following:

* * * * *

(f) *Selected financial data.* At a minimum, furnish the following combined financial data of the System in comparative columnar form for each of the last 5 fiscal years, if material.

* * * * *

(h) *Directors and management.*

(1) *Board of directors.* Briefly describe the composition of boards of directors of the disclosure entities. List the name of each director of such entities, including the director's term of office and principal occupation during the past 5 years, or state that such information is available upon request.

(2) * * *

(i) *Compensation of directors and senior officers.* State that information on the compensation of directors and senior officers of Farm Credit banks is contained in each bank's annual report to shareholders and that the annual report of each bank is available to investors upon request pursuant to § 630.3(g).

* * * * *

(k) *Relationship with qualified public accountant.*

(1) If a change in the qualified public accountant who has previously examined and expressed an opinion on the System-wide combined financial statements has taken place since the last annual report to investors or if a disagreement with a qualified public accountant has occurred that the Funding Corporation would be required to report to the FCA under part 621 of this chapter, disclose the information required by § 621.4(c) and (d).

(2) Disclose the total fees paid during the reporting period to the qualified public accountant by the category of services provided. At a minimum, identify fees paid for audit services, tax services, and non-audit services. The types of non-audit services must be identified and indicate audit committee approval of the services.

(l) *Financial statements.* Furnish System-wide combined financial statements and related footnotes prepared in accordance with GAAP, and accompanied by supplemental information prepared in accordance with the requirements of § 630.20(m). The System-wide combined financial statements shall provide investors and potential investors in FCS debt obligations with the most meaningful presentation pertaining to the financial condition and results of operations of the System. The System-wide combined financial statement and accompanying supplemental information shall be audited in accordance with generally accepted auditing standards by a qualified public accountant. The System-wide combined financial statements shall include the following:

* * * * *

Dated: December 12, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E6–21529 Filed 12–19–06; 8:45 am]

BILLING CODE 6705–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

RIN 3133–AD27

Permissible Investments for Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its investments rule to allow federal credit unions (FCUs) to enter into investment repurchase transactions in which the instrument consists of first-lien mortgage notes subject to certain limitations. The final rule expands FCU authority to invest in mortgage-related securities while addressing safety and soundness concerns associated with this new investment activity.

DATES: This rule is effective January 19, 2007.

FOR FURTHER INFORMATION CONTACT:
Technical Information: Jeremy Taylor, Senior Investments Officer, Office of Capital Markets and Planning, at National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, or telephone: (703) 518–6620.
Legal Information: Moisette Green, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

In July 2006, NCUA proposed to amend its investment rules in Part 703 to permit FCUs to engage in investment repurchase transactions in which the underlying instruments are mortgage notes evidenced by participation or trust receipts. 71 FR 42326 (July 26, 2006). The preamble to the proposed rule discussed the statutory authority, its legislative history, and NCUA regulatory implementation regarding FCU investment in mortgage-backed and mortgage-related securities. The Federal Credit Union Act (Act) permits FCUs to invest in securities offered and sold pursuant to section 4(5) of the Securities Act of 1933. 12 U.S.C. 1757(15)(A); 15 U.S.C. 77d(5). The Board had limited this authority by regulation under the eligible obligations rule so that FCUs could only purchase the mortgage notes of its members or those needed to complete a pool of loans to be sold on the secondary market. 12 CFR 701.23. The proposal to amend § 703.14 to permit mortgage note repurchase transactions contained six conditions to address safety and soundness concerns including a credit concentration limit, minimum credit rating, independent assessment of market value, maximum transaction term, custodial requirements, and undivided interests in mortgage notes. NCUA issued the proposed rule with a 60-day comment period and requested comments on the plan to expand FCU investment authority, the conditions in the proposed rule, and whether a regulation permitting mortgage note repurchase transactions should contain additional criteria.

B. Public Comments and the Final Rule

NCUA received comments from three credit unions, three trade associations, and one investment advisor on the proposed rule. Two commenters agreed with the use of independent, qualified agents to assess the market value of the mortgage notes and the requirements for undivided interests in the mortgage notes. Five commenters believed tri-party custodial arrangements would sufficiently identify the underlying loans in a mortgage note repurchase transaction. Four commenters stated the rule needed no additional underwriting criteria because the definition of the permissible securities in § 107(15)(A) includes the required criteria. Relying on reasons similar to those in the comments regarding underwriting criteria, five commenters contended the rule should not address the quality of the mortgage notes in repurchase transactions. All the commenters objected to the concentration limits, credit rating requirements, and maximum transaction term. The NCUA Board has considered carefully the three objections to the proposed rule.

Concentration Limits

The proposed rule contained concentration limits of no more than 25% of a participating FCU's net worth with any one counterparty and 100% of its net worth with all counterparties. Commenters stated the proposed concentration limits are too restrictive. One commenter suggested the limits should be 50% of net worth per counterparty and a total limit similar to the FCU borrowing limit in § 107(9) of the Act, i.e., 50% of paid-in and unimpaired capital and surplus. *See* 12 U.S.C. 1757(9). Two others stated the existing requirements for investment repurchase transactions in Part 703 are sufficient and no additional limits are necessary for mortgage note repurchase transactions, unless an FCU's directors establishes them.

NCUA investment rules currently require directors to develop investment policies that outline how FCUs will manage credit risk, including what counterparties an FCU will use, criteria for their selection, and the limits for investments with each counterparty. 12 CFR 703.3. Additionally, § 703.13(c) permits FCUs to enter into investment repurchase transactions so long as the underlying securities are permissible investments, and the investing FCU takes possession or is the recorded owner of the security, receives a daily assessment of the securities' market value, maintains adequate margins that reflect the risk and term of the transaction, and enters into signed contracts with the approved counterparties. The Board recognizes there is no concentration limit for investment repurchase agreements under § 703.13(c). These repurchase transactions involve permissible investments that are of high credit quality, for example, U.S. government securities, investment grade rated municipals, AA and AAA mortgage related securities, and securities issued or guaranteed by GSEs. In contrast, mortgage note repurchase agreements involve unrated mortgage notes.

Additionally, the securities involved in § 701.13(c) investment repurchase transactions typically have an active bid-ask market. Mortgage notes do not have an active bid-ask market, although the fair value of the mortgage notes may be estimated with reasonable accuracy. Thus, while the Board is comfortable that credit unions can set prudential margin requirements, mortgage notes may have less liquidity than other securities involved in repurchase transactions. Moreover, the Board notes the Office of the Comptroller of the Currency limits mortgage notes to no more than 25% of capital. *See* 12 U.S.C. 84(a)(2), (c)(4); 12 CFR 32.2(k)91)(iii), (n); 12 CFR 32.3.

Thus, the Board having fully considered the comments on this issue has determined to maintain the concentration limits as proposed because it believes a 25% concentration limit per counterparty is no more restrictive than the limit for national banks and maintains this and the 100% limit for purposes of safety and soundness.

Credit Rating Requirement

Commenters also objected to the proposed requirement that the counterparty to a mortgage note repurchase agreement have a long-term credit rating no lower than A − (or its equivalent). While mortgage note repurchase transactions generally have a short term, parties may rollover the transactions and enter into subsequent transactions, thereby creating a longer term of exposure to the counterparty. It is prudent to review the long-term rating of debt issued by the counterparty when rolling over repurchase transactions. Economically, the credit exposure in a mortgage note repurchase transaction may be somewhat similar to an investment grade asset-backed security (ABS) if debt of the issuing entity has been rated investment grade or if the mortgage note is guaranteed by an entity with investment grade debt. There is a distinction, however, in that an investment grade ABS is in and of itself highly rated, and the participant is relying on a credit rating of debt that is not applicable to the mortgage note as an indicator of the likelihood of default of the counterparty. Thus, the Board reasons that single A − (the third highest of the four long-term investment grades), rather than BBB − (the lowest category of investment grade), is a prudent and appropriate safety and soundness standard.

While the final rule retains the requirement for long- and short-term

credit ratings as in the proposed rule, the final rule modifies the requirement by allowing a third party, that has the required credit rating, to fully guarantee the mortgage note repurchase transaction of a counterparty that does not meet the requirement. This modification reflects market practice in which a parent company guarantees mortgage note repurchase transactions of its subsidiary. Accordingly, the final rule requires a counterparty to have acceptably rated debt or that a party with acceptably rated debt guarantee the transaction.

Maximum Transaction Term

Finally, commenters contended that the maximum term of a mortgage note repurchase transaction should be longer than, as proposed, 30 days. Commenters pointed out investors in the current market have kept repurchase agreements short due to the uncertain interest rate environment and abnormal yield curve. Commenters stated the market to finance whole loans traditionally mirrors the overall holding period of 45 to 90 days for securitization. Additionally, commenters believe the concentration limits and credit quality of the counterparty are sufficient safeguards given the aggregate size of mortgage note repurchase transactions. The Board is persuaded that a 90-day transaction is consistent with market practice and creates no additional safety and soundness risks. Therefore, the maximum transaction term in the final rule is modified to 90 days.

While this final rule amends § 703.14 to create additional requirements for investment repurchase transactions when mortgage notes are the underlying instruments, FCUs must still comply with the requirements of § 703.13(c). For instance, an FCU must obtain the daily assessment required under § 703.13(c)(1). In addition, FCUs investing in mortgage note repurchase transactions must maintain adequate margins that reflect a risk assessment of the mortgage notes and the term of the transactions under § 703.13(c)(1).

C. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities, those credit unions with less than ten million dollars in assets. The proposed rule involves the permissibility of certain investment repurchase transactions for FCUs and is grounded in NCUA concerns about the safety and soundness of the transactions and their potential effects on FCUs and the NCUSIF. Accordingly, the Board determines and certifies that this proposed rule does not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that this rule will 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. This rule 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 rule 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 this rule will not affect family well-being within the meaning 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 (SBREFA), 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 APA. 5 U.S.C. 551. NCUA has requested a SBREFA determination from the Office of Management and Budget, which is pending. As required by SBREFA, NCUA will file the appropriate reports with Congress and the General Accounting Office so that the final rule may be reviewed.

List of Subjects in 12 CFR Part 703

Credit unions, Investments, Repurchase transactions.

By the National Credit Union Administration Board on December 14, 2006.

Mary F. Rupp,

Secretary of the Board.

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 703 as set forth below:

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

■ 1. The authority citation for part 703 is continues to read:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

■ 2. Amend § 703.1 by revising paragraph (b)(2) to read as follows:

§ 703.1 Purpose and scope.

* * * * *

(b) * * *

(2) The purchase of real estate-secured loans pursuant to Section 107(15)(A) of the Act, which is governed by § 701.23 of this chapter, except those real estate-secured loans purchased as a part of an investment repurchase transaction, which is governed by §§ 703.13 and 703.14 of this chapter;

* * * * *

■ 3. Amend § 703.2 by adding the definition of ''independent qualified agent'' alphabetically to read as follows:

§ 703.2 Definitions.

* * * * *

Independent qualified agent means an agent independent of an investment repurchase counterparty that does not receive a transaction fee from the counterparty and has at least two years experience assessing the value of mortgage loans.

* * * * *

■ 4. Amend § 703.14 by adding new paragraph (h) to read as follows:

§ 703.14 Permissible investments.

* * * * *

(h) *Mortgage note repurchase transactions.* A federal credit union may invest in securities that are offered and sold pursuant to section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), only as a part of an investment repurchase agreement under § 703.13(c), subject to the following conditions:

(1) The aggregate of the investments with any one counterparty is limited to 25 percent of the credit union's net worth and 100 percent of its net worth with all counterparties;

(2) At the time a federal credit union purchases the securities, the

counterparty, or a party fully guaranteeing the transaction, must have outstanding debt with a long-term rating no lower than A – or its equivalent and outstanding debt with a short-term rating, if any, no lower than A–1 or its equivalent;

(3) The federal credit union must obtain a daily assessment of the market value of the securities under § 703.13(c)(1) using an independent qualified agent;

(4) The mortgage note repurchase transaction is limited to a maximum term of 90 days;

(5) All mortgage note repurchase transactions will be conducted under tri-party custodial agreements; and

(6) A federal credit union must obtain an undivided interest in the securities.

[FR Doc. E6–21662 Filed 12–19–06; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2005–22680; Airspace Docket No. 05–ASW–3]

RIN 2120–AA66

Establishment of Restricted Area 5601F; Fort Sill, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Restricted Area 5601F (R–5601F) over Fort Sill, OK. The United States (U.S.) Army requested that the FAA take action to establish R–5601F to provide additional airspace needed to support new high angle air-to-ground training requirements for Air Force, Navy, and Marine aircraft operating over the Falcon Bombing Range and to enhance Fort Sill's ability to host joint training.

DATES: *Effective Date:* 0901 UTC, March 15, 2007.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 2005, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish R–5601F in response to a request from the U.S. Army (70 FR 66306). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Five comments were received.

Discussion of Comments

The commenters included the Aircraft Owners and Pilots Association (AOPA), the Oklahoma Pilots Association (OPA), and three individuals. The following is a summary of those comments and the FAA's responses:

Three commenters expressed a concern that R–5601F would harm the Wichita Mountain Wildlife Refuge and Lake Latonka.

Response: The FAA disagrees that R–5601F would cause significant harm to these areas because R–5601F would be a narrow piece of airspace (typically less than 3–4 miles from north to south) and the Army agreed to restrict flight to 5,500 feet mean sea level and above, over the Wildlife Refuge, to mitigate adverse impacts. We also note that the Wildlife Manager of the Wichita Mountain Wildlife Refuge had no objections to the establishment of R–5601F as outlined in the draft environmental assessment that was later adopted.

Two commenters stated that R–5601F should not be designated as a restricted area because the activity would not constitute ''a hazard to non-participating aircraft'' as required by FAA Order 7400.2E.

Response: FAA Order 7400.2F, Procedures for Handling Airspace Matters (effective on February 16, 2006) supercedes FAA Order 7400.2E. Both versions specify that the purpose of a restricted area is to confine or segregate activities considered hazardous to nonparticipating aircraft. The FAA believes it is appropriate to designate the needed maneuvering area as a restricted area because the participating aircraft will be maneuvering with armed weapons while preparing to drop and/or fire on the target areas. This activity constitutes a hazard and must be conducted within restricted airspace.

Two commenters stated that there currently is not enough activity at Fort Sill to justify a need for additional restricted airspace.

Response: R–5601F would provide the maneuvering airspace needed to safely execute new high angle air-to-ground training requirements for Air Force, Navy, and Marine aircraft.

One commenter expressed a concern that the proposed R–5061F would ''negatively impact general aviation by closing one of the last VFR corridors left in southern Oklahoma'' and one other commenter stated that the proposed restricted area would restrict air tours over the Wichita Mountain National Wildlife Refuge and Lake Latonka.

Response: The FAA believes that the impact would be minimal because the Army plans to use the airspace less than 6 hours per day. Also, nonparticipating aircraft will have the opportunity to fly through the area when the airspace is not in use and may contact Fort Sill Approach for the status of R–5601F.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 73 to establish R–5601F adjacent to and north of R–5601B and R–5601C. Establishment of the new restricted area will provide additional airspace needed to support new high angle air-to-ground training requirements for Air Force, Navy, and Marine aircraft operating over the Falcon Bombing Range and will enhance Fort Sill's ability to host joint training.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

On October 4, 2006, the FAA adopted the U.S. Army's Finding of No Significant Impact and Record of Decision for the establishment of R–5601F.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited Areas, Restricted Areas.

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows: