

modified first mortgage.” For interest-only loans, “[t]he second lien will amortize over the longer of the remaining term of the modified first lien or the originally scheduled amortization term, with amortization to begin at the time specified in the original contract.” Without an amendment to § 701.21(f), federal credit unions cannot participate in the MHA Second Lien Program if the first mortgage is for a term longer than 20 years.

This interim final rule creates a limited exception to the 20-year maturity limit on second mortgage loans. The new provision, § 701.21(f)(3), will permit federal credit unions participating in Treasury’s MHA Program to modify a second mortgage to match the term of a modified first mortgage, beyond 20 years. Credit unions that are not participating in the MHA Second Lien Program will still be subject to the current 20-year maturity limitation on second liens.

**II. Interim Rule and Immediate Effective Date**

NCUA is issuing this rulemaking as an interim final rule, effective upon publication. The Administrative Procedure Act (APA), 5 U.S.C. 553, requires that, before a rulemaking can be finalized, it must first be published as a notice of proposed rulemaking with the opportunity for public comment, unless the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. Additionally, the APA requires that, once finalized, a rulemaking must have a delayed effective date of 30 days from the date of publication, except for good cause.

In this regard, NCUA invokes the good cause exception to the requirements of the APA. NCUA believes good cause exists for issuing these amendments as an interim rule effective immediately. Due to the deep contraction in the American economy and, in particular, the housing market, millions of homeowners are struggling with unaffordable housing payments and are at risk of foreclosure. The interim rule provides credit unions with the ability to participate in the MHA Second Lien Program and, thus, to better assist struggling homeowners unable to afford their housing payments. The interim rule is limited in scope and does not impose any regulatory burden; rather, the rule provides greater flexibility for credit unions to assist their members in these turbulent economic times.

For these reasons, NCUA has determined that the public notice and participation that the APA ordinarily

requires before a regulation may take effect would, in this case, be contrary to the public interest and, further, that good cause exists for waiving the customary 30-day delayed effective date. Nevertheless, NCUA would like the benefit of public comment before adopting a permanent final rule and, thus, invites interested parties to submit comments during a 60-day comment period. In adopting the final regulation, NCUA will revise the interim rule in light of the comments received on the interim rule, if appropriate.

**III. 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 (primarily those under ten million dollars in assets). This interim final rule does not impose any regulatory burden but provides flexibility to all federal credit unions to allow for participation in the MHA Second Lien Program. Accordingly, it will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is 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.

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

NCUA has determined that this 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) (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 does not believe this interim final rule is a “major rule” within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

**List of Subjects in 12 CFR Part 701**

Credit, Credit unions, Mortgages.

By the National Credit Union Administration Board, this 18th day of June 2009.

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

■ For the reasons discussed above, NCUA amends 12 CFR Part 701 as follows:

**PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS**

■ 1. The authority citation for Part 701 continues to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789.

Section 701.6 is also authorized by 15 U.S.C. 3717.

Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610.

Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Section 701.21 is amended by adding new paragraph (f)(3) to read as follows:

**§ 701.21 Loans to members and lines of credit to members.**

\* \* \* \* \*

(f) \* \* \*

(3) Notwithstanding the general 20-year maturity limit on second mortgage loans, a federal credit union participating in the Department of the Treasury’s Making Home Affordable Program may extend the term of a modified second mortgage to match the term of a modified first mortgage, in accordance with applicable program guidelines.

\* \* \* \* \*

[FR Doc. E9–14759 Filed 6–23–09; 8:45 am]

**BILLING CODE 7535–01–P**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 701**

**RIN 3133–AD60**

**Operating Fees**

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

**ACTION:** Final rule.

**SUMMARY:** NCUA is amending its rule on the assessment of the Federal credit union (FCU) operating fee by permitting FCUs to subtract investments made under the Credit Union System Investment Program (CU SIP) and the

Credit Union Homeowners Affordability Relief Program (CU HARP) from their total assets; total assets is the basis on which the operating fee is currently calculated. The Board believes this amendment will remove a disincentive for some FCUs from participating in the CU SIP or the CU HARP.

**DATES:** This rule is effective January 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Justin M. Anderson, Staff Attorney, Office of General Counsel, at (703) 518-6540.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

In February 2009, the NCUA Board issued a proposed rule to amend § 701.6 of NCUA's regulations. 74 FR 9573 (Mar. 5, 2009). The proposed rule recommended allowing FCUs to deduct investments under the CU SIP and CU HARP from the calculation of total assets for purposes of assessing the operating fee.

Currently, § 701.6 sets out the basis on which NCUA assesses the operating fee. Briefly summarized, this section provides that FCUs must pay NCUA an annual operating fee based on the credit union's total assets. 12 CFR 701.6(a). NCUA calculates an FCU's operating fee by multiplying the dollar amount of the total assets by a percentage set by the Board after considering the expenses of NCUA and the ability of FCUs to pay the fee. The term "total assets" generally includes all assets created on an FCU's books related to investments made by an FCU that are currently outstanding as of the close of the previous fiscal year. Based on this calculation, an increase in the dollar amount of investments will increase total assets and, thereby, may increase an FCU's operating fee.

The Board recognized an increase in an FCU's operating fee might be a disincentive for FCUs to participate in the CU SIP and CU HARP. The Board, therefore, issued a proposed rule permitting FCUs to calculate their total assets less any asset created by an investment in the CU SIP or CU HARP. Because the operating fee is based on an FCU's total assets as of the close of the previous fiscal year and funding for the CU SIP and CU HARP took place after January 1, 2009, the proposed amendments would not affect the computation of the operating fee until 2010.

**B. Discussion**

The NCUA Board received seven comment letters regarding the proposal: two from credit union trade associations; two from State credit

union leagues; and three from FCUs. All of the comment letters generally supported the amendment in the proposed rule and six of the commenters offered no additional comments or suggestions. One commenter suggested NCUA also amend the definition of total assets for purposes of prompt corrective action, 12 CFR Part 702, to exclude guaranteed or no/low risk assets from net worth ratio calculations. This comment is outside the scope of this rulemaking; NCUA may consider this suggestion when it reviews the prompt corrective action rule as part of its rolling regulation review under Interpretive Ruling and Policy Statement (IRPS) 87-2, Developing and Reviewing Government Regulations.

In the final rule, the Board is adopting a recommendation from agency staff to revise the regulatory language to describe the calculation more clearly. The proposed rule stated the term "total assets" does not include investments made under the CU SIP and CU HARP. The final rule has been revised to state the operating fee is determined based on total assets less the assets created on the books of a natural person FCU by investments under CU SIP and CU HARP. This revision does not change the substance of the proposed amendment or its intended effect, which is to ensure that FCUs will not pay an increased operating fee because of their participation in the CU SIP or CU HARP.

**Regulatory Procedures**

*Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under \$10 million in assets). This final rule revises the calculation of total assets for purposes of the assessment of the FCU operating fee and permits FCUs to subtract investments made under the CU SIP and the CU HARP from the calculation. The operating fee is calculated as a percentage of total assets and, as such, the calculation already is geared to impose a smaller fee on smaller credit unions. In addition, the operating fee schedule has historically imposed no operating fee on FCUs with assets up to \$500,000 and a flat fee of \$100 for FCUs of up to \$750,000 in assets. The benefit of the amendment would apply equally to small credit unions, to the extent they participate in the CU SIP or the CU HARP, and would not have a significant effect on their operating fees. The final

rule, therefore, will not have a significant economic impact on a substantial number of small credit unions and a regulatory flexibility analysis is not required.

*Paperwork Reduction Act*

NCUA has determined that the amendment will not increase paperwork requirements and a paperwork reduction analysis is not required.

*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. NCUA does not believe this final rule is a "major rule" within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

*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 does not have substantial direct effects on the States, on the connection 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 final 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*

NCUA has determined that this final rule would 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).

**List of Subjects in 12 CFR Part 701**

Credit unions, Operating fee.

By the National Credit Union Administration Board on June 18, 2009.

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

■ For the reasons stated in the preamble, the National Credit Union

Administration is amending 12 CFR part 701 as set forth below:

## PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. In § 701.6, add a new sentence to the end of paragraph (a) to read as follows:

### § 701.6 Fees paid by Federal credit unions.

(a) \* \* \* The operating fee is determined based on total assets less the assets created on the books of a natural person Federal credit union by investments made in a corporate credit union under the Credit Union System Investment Program or the Credit Union Homeowners Affordability Relief Program.

\* \* \* \* \*

[FR Doc. E9–14756 Filed 6–23–09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2009–0570; Directorate Identifier 2009–CE–033–AD; Amendment 39–15949; AD 2009–13–10]

RIN 2120–AA64

### Airworthiness Directives; British Aerospace Regional Aircraft Model HP.137 Jetstream Mk.1, Jetstream Series 200 and 3101, and Jetstream Model 3201 Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

BAE systems have been notified by the MLG radius rod manufacturer, APPH Ltd,

that a batch of incorrectly manufactured Buffer Springs (part number 184818) had been supplied to their parts distributor and MRO facilities in North America.

There is a risk that any radius rod fitted with one of these incorrectly manufactured Buffer Springs could jam in an unlocked position.

This condition, if not corrected, could result in MLG collapse.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** This AD becomes effective June 26, 2009.

On June 26, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by July 24, 2009.

**ADDRESSES:** You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### FOR FURTHER INFORMATION CONTACT:

Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency AD No. 2009–0121–E, dated June 9, 2009 (referred to after this as

“the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

BAE systems have been notified by the MLG radius rod manufacturer, APPH Ltd, that a batch of incorrectly manufactured Buffer Springs (part number 184818) had been supplied to their parts distributor and MRO facilities in North America.

There is a risk that any radius rod fitted with one of these incorrectly manufactured Buffer Springs could jam in an unlocked position.

This condition, if not corrected, could result in MLG collapse.

For the reasons described above, this Emergency AD requires the replacement of each affected radius rod with a serviceable unit and allows the installation of the affected radius rods only after the accomplishment of APPH Service Bulletins 1847–32–14 and 1862–32–14.

You may obtain further information by examining the MCAI in the AD docket.

#### Relevant Service Information

British Aerospace Regional Aircraft has issued British Aerospace Jetstream Series 3100 and 3200 Alert Service Bulletin 32–A–JA090640, dated June 2009 (includes an attached Accomplishment Report), and APPH BBA Aviation has issued APPH Ltd. Service Bulletins 1847–32–14 and 1862–32–14, both dated June 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### FAA’s Determination and Requirements of the AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

#### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information