

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-242, title II, §251(b)(3), Dec. 19, 1991, 105 Stat. 2333, provided that: “Paragraph (2) of section 213(a) of the Federal Credit Union Act [12 U.S.C. 1790b(a)(2)] (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act [Dec. 19, 1991], the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.”

§ 1790c. Reward for information leading to recoveries or civil penalties

The Board may pay rewards in connection with an offense affecting an insured credit union, under the same circumstances and subject to the same limitations that a Federal banking agency may pay rewards under section 1831j of this title in connection with an offense affecting a depository institution insured by the Federal Deposit Insurance Corporation.

(June 26, 1934, ch. 750, title II, §214, as added Pub. L. 101-73, title IX, §933(b), Aug. 9, 1989, 103 Stat. 496.)

§ 1790d. Prompt corrective action

(a) Resolving problems to protect Fund

(1) Purpose

The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the Fund.

(2) Prompt corrective action required

The Board shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured credit unions.

(b) Regulations required

(1) Insured credit unions

(A) In general

The Board shall, by regulation, prescribe a system of prompt corrective action for insured credit unions that is—

- (i) consistent with this section; and
- (ii) comparable to section 1831o of this title.

(B) Cooperative character of credit unions

The Board shall design the system required under subparagraph (A) to take into account that credit unions are not-for-profit cooperatives that—

- (i) do not issue capital stock;
- (ii) must rely on retained earnings to build net worth; and
- (iii) have boards of directors that consist primarily of volunteers.

(2) New credit unions

(A) In general

In addition to regulations under paragraph (1), the Board shall, by regulation, prescribe a system of prompt corrective action that shall apply to new credit unions in lieu of this section and the regulations prescribed under paragraph (1).

(B) Criteria for alternative system

The Board shall design the system prescribed under subparagraph (A)—

(i) to carry out the purpose of this section;

(ii) to recognize that credit unions (as cooperatives that do not issue capital stock) initially have no net worth, and give new credit unions reasonable time to accumulate net worth;

(iii) to create adequate incentives for new credit unions to become adequately capitalized by the time that they either—

(I) have been in operation for more than 10 years; or

(II) have more than \$10,000,000 in total assets;

(iv) to impose appropriate restrictions and requirements on new credit unions that do not make sufficient progress toward becoming adequately capitalized; and

(v) to prevent evasion of the purpose of this section.

(c) Net worth categories

(1) In general

For purposes of this section the following definitions shall apply:

(A) Well capitalized

An insured credit union is “well capitalized” if—

- (i) it has a net worth ratio of not less than 7 percent; and
- (ii) it meets any applicable risk-based net worth requirement under subsection (d).

(B) Adequately capitalized

An insured credit union is “adequately capitalized” if—

- (i) it has a net worth ratio of not less than 6 percent; and
- (ii) it meets any applicable risk-based net worth requirement under subsection (d).

(C) Undercapitalized

An insured credit union is “undercapitalized” if—

- (i) it has a net worth ratio of less than 6 percent; or
- (ii) it fails to meet any applicable risk-based net worth requirement under subsection (d).

(D) Significantly undercapitalized

An insured credit union is “significantly undercapitalized”—

- (i) if it has a net worth ratio of less than 4 percent; or
- (ii) if—

(I) it has a net worth ratio of less than 5 percent; and

(II) it—

(aa) fails to submit an acceptable net worth restoration plan within the time allowed under subsection (f); or

(bb) materially fails to implement a net worth restoration plan accepted by the Board.

(E) Critically undercapitalized

An insured credit union is “critically undercapitalized” if it has a net worth ratio