



National Credit Union Administration

# National Supervision Policy Manual



## **Purpose and Implementation**

This National Supervision Policy Manual (NSPM) exists to establish national policies, procedures, and guidelines for effective district management, supervision of credit unions and quality assurance. Promoting the consistent application of the examination procedures outlined in the NSPM, and vetting and coordinating across the agency the need for any additional examination policies and procedures furthers its purpose.

Supervisors have the right and responsibility to assign work and manage staff; however, it is not appropriate for supervisors to institute new or additional standard operating procedures.<sup>1</sup> Implementing additional procedures applicable to all examiners in an SE group or field office or establishing general policy narrower than national guidance is not appropriate. On a case-by-case basis, supervisors can and should implement procedures to manage risk in specific credit unions and/or address the development needs of individual employees.

Adoption by field offices or supervisors of any alternative or additional examination policies, procedures, or directives beyond what is already addressed in the NSPM and other national guidance must be cleared through the Exam Steering Group and the Office of Examination and Insurance. The Exam Steering Group will review and evaluate field office and/or SE level specific practices to determine if they require approval by the Office of Examination and Insurance.

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<sup>1</sup>Often referred to as Layering.

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# Chapter 1 – District Management

District management encompasses the comprehensive objective of managing and maintaining continuous and detailed knowledge of an assigned district of credit unions. This includes ongoing financial analysis, knowledge of local economic condition, knowledge of current events affecting assigned credit unions, identification of emerging risks, and the routine reporting to management on these issues. The ongoing reevaluation of supervision plans based on this analysis is needed to effectively match resources to risks.

District management also includes the scheduling, the prioritizing, and the administrative tasks associated with the examiner position. Examiners are responsible for effectively managing risk within their districts by scheduling examinations/supervision contacts based on current and emerging risks. Examiners will document supervision and keep their supervisor apprised of any significant issues affecting their ability to provide adequate supervision to assigned credit unions. Effective district management includes the collaboration of examiners,<sup>2</sup> supervisors,<sup>3</sup> Regional Offices<sup>4</sup>, and the Central Office to provide risk-focused supervision and mitigate losses to the National Credit Union Share Insurance Fund (NCUSIF).

## 1. Examination Budgeting/Scheduling

Budgeting and scheduling of examination work is critical to effectively manage resources and ensure timely examinations/supervision contacts. Appropriate scheduling ensures resource allocation can be directed to the credit unions of regional and national significance as needs arise and helps to ensure the NCUA achieves its mission.

### A. Budgeting Process

Examiners – The budgeting process begins with examiners. Examiners are responsible and accountable for using historical knowledge of the credit union, Management Automated Resource System (MARS), and/or the “Plans & Budget Tab” in the Scope Module to view previously recommended examination/supervision hours for each district credit union.<sup>5</sup> Based on this information, examiners will submit recommended estimated hours to their supervisor during the annual resource planning process using the credit union resource allocation module in MARS online (the Office of Examination and Insurance (E&I) provides instructions for this process annually).

Additionally, examiners will recommend specialized resources in consultation with their supervisor when the size, complexity, or potential risk to the NCUSIF warrants the use of

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<sup>2</sup> Throughout this Manual, the term “examiner” includes District and Principal Examiners, Problem Case Officers, National Credit Union Examiners and specialized examiners.

<sup>3</sup> Throughout this Manual, the term “supervisor” includes Supervisory Examiners, National Field Supervisors and Directors of Special Actions.

<sup>4</sup> Throughout this manual, the term “Regional Office” includes the Office of National Examinations and Supervision (ONES).

<sup>5</sup> For corporate credit unions, examiners will use the most recent Agreed Upon Supervision Plan (AUSP) or other historical information.



specialized expertise (e.g. Regional Office/ONES staff, Central Office staff, Asset Management Assistance Center (AMAC), outside contractors). Examiners will consult with their supervisor during the year if conditions warrant changes to the examination budget.

Supervisors – Supervisors are responsible and accountable for:

- Managing resources on an ongoing basis throughout the year to ensure the proper development of examiners and completion of program including the resolution of risk areas.
- Managing resources to effectively examine large, complex and problematic institutions.
- Evaluating the annual budget recommendation for the group after consultation with their district examiners.
- Monitoring and reconciling group budgets monthly using the MARS online system and according to Associate Regional Director – Program (ARDP) direction.
- Reporting the group program status, variances, and shortfalls to the ARDP monthly, adjust budgets, or request assistance when group resources are not sufficient to complete the examination program or as conditions warrant.

Regional Director (RD) / ARDP<sup>6</sup> – ARDPs are responsible and accountable for managing the regional resources budget and keeping the RDs informed of the status of regional examination/supervision programs. ARDPs will reallocate regional resources and coordinate with Associate Regional Director – Operations (ARDO)/ARDPs/RD to secure assistance when group resources are not sufficient. ARDPs will ensure all workload budgets are reconciled by the 10th of each month. Regional Directors will provide quarterly reports to E&I<sup>7</sup> noting the region’s examination program, workload budget, and the status of any shortfalls and/or the identification of any assistance needed.

E&I – E&I is responsible and accountable for monitoring the successful completion of the national examination and supervision program. E&I will review the status of regional and national program completion and emerging needs, assist with resource needs where necessary, and establish national priorities when conditions warrant ensuring completion of national program goals. E&I will monitor appropriate MARS reports, specialized reports, and evaluate quarterly regional workload reports, to identify national trends and resource priorities.

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<sup>6</sup> Throughout this manual, “Regional Director” includes the ONES Director and “Associate Regional Director” includes the ONES Deputy Director.

<sup>7</sup> E&I will periodically and routinely request these reports from the regions. E&I will allow sufficient time for regional responses.

## **B. Scheduling of Examinations and Supervision Contacts**

The timing of examinations/supervision contacts is important from both a risk management and resource management perspective. Examinations will be scheduled in accordance with NCUA's Annual Examination Scheduling Program.

## **C. NCUA Annual Examination Scheduling Program**

All Federal Credit Unions (FCUs) and those Federally Insured State Chartered Credit Unions (FISCUs) with assets greater than \$250 million (based on the March 31<sup>ST</sup> 5300 or 5310 Call Report in the preceding calendar year) will be examined once each calendar year.<sup>8</sup> NCUA will use the examination completion date as a beginning point to assist field staff to determine appropriate examination scheduling and to monitor compliance with the minimum and maximum examination timeframes. Examiners will schedule and complete annual examinations using the following time intervals:

- Maximum time between the completion dates of one examination to the completion date of the next examination is 23 months. ARDPs must approve examinations extending beyond 18-months of the completion date of the last examination.
- Minimum time between the completion dates of one examination to the completion date of the next examination is 8 months. ARDPs may authorize an earlier minimal time interval where risk indicators warrant an accelerated examination.

### Examiners

Examiners are responsible for managing assigned district credit unions. Examiners will schedule examinations/supervision contacts based on risk priorities, including the completion of problem case credit unions within established time frames. In addition, examiners may be assigned other work assignments outside their assigned districts. These assignments will be determined by the supervisor or regional management.

Annually, as part of district management, examiners will determine their plans for examining and supervising their assigned credit unions. Additionally, during the annual resource budgeting process examiners will re-evaluate and affirm their plans for each credit union for the following year. The information will be submitted to the assigned supervisor for inclusion in the resource budget.

Examiners will develop a plan for monitoring and supervising credit unions consistent with their size, complexity, condition, and timing of the next examination. Examiners may change their exam, insurance review, and supervision plans at any time if circumstances warrant. Changes will be made through the assigned supervisor.

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<sup>8</sup> All corporate credit unions must be examined once each calendar year, regardless of asset size. For CCUs, maximum time between completion dates is 12 months unless the Deputy Director approves an extension.

## Supervisors

Supervisors are responsible for monitoring their examiners' resource allocation plans for appropriateness and consistency with the appropriate scheduling program. They will evaluate scheduling changes throughout the year to ensure they meet budgetary goals and maintain a results oriented examination program and coordinate specialized resources where conditions warrant. Supervisors will consult with the ARDP, if needed, to obtain assistance in completing workload.

Supervisors will develop the annual resource budget for their assigned credit unions using the information provided by examiners. The process will include an analysis of the level of supervision, timing of examinations, and balancing of year-to-year workload. Supervisors will record and report the scheduling information for their assigned credit unions during the budget process and as changes are made during the year.

## ARDPs

ARDPs will evaluate the information submitted by the supervisors for reasonableness and ensure it accurately reflects the region's examination scheduling needs and risk profile. ARDPs will develop the annual resource budget for RD approval using the information provided by the supervisors.

ARDPs will evaluate, on a case-by-case basis, variances in the annual scheduling program. Recommendations for variances in the annual scheduling program may only be approved in advance by the RD - typically for circumstances such as merger, liquidation, charter conversion, or if risk indicators warrant an accelerated examination schedule.

## RDs

RDs are ultimately responsible for the scheduling, monitoring, and reporting of their region's examination program. They are also responsible for monitoring exceptions and variances in the program to ensure they are reasonable. RDs will ensure appropriate resources, including expert and specialized resources, are dedicated to those examination/supervision contacts of the highest regional importance. RDs will coordinate resources between regions as regional and national needs shift.

## E&I

E&I will oversee the program for consistency and quality. Oversight will include monitoring of exam completion averages, analysis of exams completed outside of the minimum and maximum parameters, and review of scheduling information submitted by the regions.

## 2. General Supervision<sup>9</sup> Responsibilities

### A. Examiner Responsibilities

Examiners are responsible for effectively managing risk within their districts and mitigating losses to the NCUSIF. Examiners will schedule examinations and supervision contacts based on identified and emerging risks and in accordance with this Manual. Examiners will complete examinations/supervision contacts according to standards established in this Manual, within the AIRES Manual<sup>10</sup>, the [Examiner's Guide](#), and other applicable references including CAMEL and risk ratings with the focus on timely correction of identified problems. Examiners will utilize all tools available to identify current and emerging risks in credit unions. These tools include, but are not limited to:

- [Examiner's Guide](#);
- NCUA's SharePoint sites;
- Letters to Credit Unions;
- Regulatory and Risk Alerts;
- NCUA's Legal Opinions;
- FPRs;
- Risk Reports;
- White Papers;
- FFIEC Guidance; and
- Supervisory Letters.

Examiners are also responsible for completing results-driven supervision and ensuring compliance with the supervision and reporting requirements of this chapter, including, but not limited to, effectively, efficiently, and timely scheduling onsite and offsite contacts for their assigned credit unions. Examiners will keep their supervisor apprised of any significant issues affecting their ability to conduct adequate and proper supervision of their assigned credit unions. Examiners will be responsible for reporting to their supervisor and/or other offices (as needed) their supervision and oversight efforts.

Examiners are responsible for supervising assigned credit unions through:

- Ongoing, results-oriented examination and supervision contacts;
- Written 5300 Call Report Risk Reviews based on national risk reports;
- Analysis of Financial Performance Reports (FPRs);
- Ongoing communication with officials and management; and

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<sup>9</sup> "Supervision" encompasses all examinations, onsite, and offsite contacts performed at credit unions and documentation of an administrative record.

<sup>10</sup> For corporate credit union examinations, refer to Corporate Examiner Work Center Manual.

- Maintenance of a Supervision Chronology Report (commonly referred to as a “chronology,” see [Section 4](#) of this Chapter) ([Appendix 1-A](#)) for CAMEL 3 credit unions with assets greater than \$250 million, all CAMEL 4/5 credit unions, and in credit unions requiring a 60-day follow up for significant recordkeeping concerns.

## **B. Supervisor Responsibilities**

Supervisors are responsible for managing risks within their groups and mitigating losses to the NCUSIF. Supervisors must ensure examination/supervision contact reports are high quality, results oriented work products that:

- Properly identify and rate significant risks;
- Assign appropriate CAMEL and risk ratings;
- Reflect a complete administrative record; and
- Develop appropriate plans to correct major problems.

Supervisors are responsible for ensuring examinations/supervision contacts are scheduled, conducted, and completed appropriately. Supervisors will facilitate scheduling for team examinations and request appropriate specialized resources are provided for institutions representing a significant risk to the NCUSIF.

Supervisors are also responsible for ensuring examiners complete results-driven supervision and provide the proper level and type of supervision for each credit union. Supervisors will ensure examiners properly schedule supervision contacts, within the appropriate timeframes given the conditions unique to each credit union. Supervisors will ensure extension requests are reasonable and justifiable and will not unduly jeopardize credit union operations or risk to the NCUSIF.

Supervisors will use a variety of tools (including but not limited to: MARS, risk reports, Call Reports, and regional reports) to ensure assigned credit unions receive the proper results-oriented supervision on a timely basis. Supervisors will be responsible for reporting on the highest risk credit unions in their group to their Regional Office on a regular predefined interval using established forms, methodologies, and systems (e.g. [High Risk Credit Union Pipeline Reports](#), critical cases, etc.).

## **C. Regional Director Responsibilities**

RDs are responsible for mitigating losses to the NCUSIF, identifying emerging risk trends, and taking proactive steps to correct problems. In addition, RDs are responsible for measuring and monitoring the regional examination program for quality and completeness, as well as adherence to established standards including CAMEL and risk ratings. RDs will work with supervisors to ensure appropriate specialized resources are provided for institutions representing a significant risk to the NCUSIF. RDs will report quarterly to

E&I regarding the status of their examination programs including adherence to examination and supervision standards.<sup>11</sup>

The RD is also responsible for monitoring and evaluating overall supervision efficiency, effectiveness, and timeliness. The RD will monitor supervision efforts through the quality control review process and various available reporting tools, including self-designed monitoring reports. The RD will report on their high-risk credit unions via the monthly management report, [High Risk Credit Union Pipeline Reports](#) (see NCUA Instruction 4001), and other methods as they become available.

#### **D. E&I Responsibilities**

E&I will monitor national status and trends based on quarterly reports prepared by the Regional Offices (ROs). E&I is also responsible for:

- Establishing the national minimum examination scope with regional input;
- Evaluating the quality of the credit union examination program;
- Collecting and monitoring information on emerging risks, resources, and program quality;
- Establishing new examination and quality assurance procedures; and
- Monitoring overall national trends to ensure a high quality examination program with the objective of minimizing risk to the NCUSIF.

E&I is responsible for the overall adherence to established standards outlined in this Manual, , AIRE Manual, and other national issuances, including CAMEL and risk ratings. E&I will also monitor the national status and trends of supervision efforts. E&I will use this information to evaluate risk mitigation and control, identify weaknesses in the supervision processes, and develop and deploy (with regional input) revised supervision policies and procedures.

### **3. Administrative Record**

Examiners will ensure the administrative record documents their concerns about the credit union. Examiners must compile the administrative record through AIRE examination/supervision contact reports or other written communications to the officials. The administrative record is the total collection of information needed for decision-making purposes. The administrative record must present a complete, factual, and fully documented history of the credit union's problems. The administrative record should also clearly document the efforts taken (or not taken) by both the credit union officials and NCUA to resolve those problems.

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<sup>11</sup> Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions should ensure their current systems capture the requested information.

## **4. Supervision Chronology Report**

At a minimum, Chronology Reports are required for CAMEL 3 Federally Insured Credit Unions (FICUs) with assets \$250 million and greater, CAMEL 4 or 5 FICUs, and credit unions requiring a 60 day follow-up for significant recordkeeping concerns. Examiners should document in the Supervision Chronology Report ([Appendix 1-A](#)) a detailed historical sequence of all issues relating to the supervision of the credit union and include in each subsequent upload, until the report is no longer required. Such items would include:

- All contacts performed at the credit union (e.g., examinations, insurance reviews, follow-up examinations, offsite supervision, etc.) subsequent to the credit union triggering a required chronology report;
- Correspondence sent to or received from the credit union;
- Telephone calls or email correspondence to and from the credit union;
- Any significant conversations that could later be important to the administrative record; and
- Ongoing correspondence for credit unions with identified recordkeeping issues.

Examiners will maintain the Supervision Chronology Report and send to their SE and/or Regional office as requested by the SE or Regional office. The Supervision Chronology Report is in addition to other reports that may be required for purposes of building an administrative record.

## **5. Administrative Actions for Troubled Credit Unions**

Informal and/or formal administrative actions are expected on all credit unions coded a CAMEL 4 or 5 (see [Supervisory Letter No. 10-4](#) for more information). Regions will:

- Issue a PWL or LUA<sup>12</sup> to all CAMEL Code 4 and 5 credit unions unless a more formal administrative action is approved. The ARDP or ARDO documents in writing for inclusion in the administrative record why a PWL or LUA is otherwise unnecessary. Examiners will document their recommendation regarding the need for a PWL or LUA in the Confidential Section and the ARDP/ARDO decision.
- Regions should use enforcement actions for any other CAMEL coded credit unions as warranted to prevent material concerns from threatening the viability of the institution.

## **6. Notice of Troubled Condition**

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<sup>12</sup> Examiners will work through their Supervisor and Regional Office for LUAs, PWLs, or other administrative actions as described in [Chapter 11](#).

A credit union in “troubled condition” is defined as:<sup>13</sup>

- An FCU that has been assigned a 4 or 5 CAMEL composite rating by NCUA.
- A FISCU that has been assigned a 4 or 5 CAMEL composite rating by *either* NCUA, after an on-site contact, or its state supervisor.
- An FCU or FISCU that has been granted assistance under section 208 of the FCU Act, that remains outstanding and unextinguished.

#### A. FCUs

- FCUs newly downgraded to a CAMEL Code 4 or 5 must receive notification of their troubled status. In the open section of the report, the examiner will include:

*“Your credit union is coded CAMEL 4 [or 5] as a result of this examination (or onsite supervision contact). Therefore, the (Credit Union's Name) Federal Credit Union is now designated in "troubled condition" per Section 212(f) of the Federal Credit Union Act and Section 701.14 of the National Credit Union Administration (NCUA) Rules and Regulations. You must obtain NCUA approval for changes of officials and senior executive officers at least 30 days prior to the effective date of the change, or within 48 hours of election at an annual membership meeting. You can find this information on NCUA's website. The procedures remain in effect until the credit union is upgraded to a CAMEL code 3 or better.”*

The examiner may choose to include the forms in the exam report or provide the credit union with the specific location of the forms as necessary.<sup>14</sup>

- For FCUs newly upgraded from a CAMEL 4 or 5 to a 3 or better, examiners will notify the FCU that they are no longer considered in troubled condition, by including the following excerpt in the open section of the report:

*“Previously, your credit union received notification it was subject to requirements under Section 701.14 of the National Credit Union Administration Rules and Regulations. As a result of your credit union's CAMEL rating upgrade to a CAMEL “[enter CAMEL rating of 3, 2, or 1]” rating and removal from “troubled” status, you are no longer required to obtain NCUA approval for changes of officials and senior executive officers.”*

#### B. FISCUs

A FISCU that has been assigned a 4 or 5 CAMEL composite rating by *either* NCUA, after an on-site contact, or its state supervisor must be notified of its troubled status.<sup>15</sup>

<sup>13</sup>§701.14. This definition is effective February 19, 2013.

<sup>14</sup><http://www.ncua.gov/Legal/GuidesEtc/Pages/Notice-of-Change-in-Official-or-Senior-Executive-Officer.aspx>



- FISCUs newly downgraded to a CAMEL 4 or 5 by NCUA during a joint examination or onsite contact or an insurance review must receive notification of their troubled status. NCUA examiners will include the following language at the top of the FISCU CAMEL Evaluation Form, found in AIRES:

*“Your credit union is coded CAMEL 4 [or 5] by NCUA as a result of this examination (or onsite supervision contact). Therefore, the (Credit Union's Name) Credit Union is now designated in "troubled condition" per Section 212(f) of the Federal Credit Union Act and Section 701.14 of the National Credit Union Administration (NCUA) Rules and Regulations. You must obtain approval from your state supervisor and NCUA for changes of officials and senior executive officers at least 30 days prior to the effective date of the change, or within 48 hours of election at an annual membership meeting. You can find this information on NCUA's website. The procedures remain in effect until the credit union is upgraded to a CAMEL code 3 or better.”*

- FISCUs newly downgraded to a CAMEL 4 or 5 as a result of their state supervisor's rating must be notified of their troubled status.<sup>16</sup> During the required WCC 26 review (see [Chapter 3](#)) NCUA examiners will determine whether the FISCU received written notification of their troubled condition by the state supervisor via the examination report, separate letter, or otherwise. If notification by the state supervisor cannot be confirmed, the NCUA examiner will draft a letter notifying the FISCU of their troubled status using [Appendix 11-C](#) to be processed for RD signature through the examiner's supervisor, and the RO.
- FISCUs are considered “troubled” based on the CAMEL composite rating by *either* the state supervisor or NCUA. A FISCU's “troubled” status can only be removed when both the state supervisor and NCUA have upgraded a FISCU's CAMEL composite rating to a 3 or better as a result of an examination (or onsite contact). When both the state supervisor and NCUA have upgraded a FISCU to a CAMEL code 3 or better, examiners will notify the FISCU that they are no longer considered in troubled condition, by including the following excerpt at the top of the FISCU CAMEL Evaluation Form:

*“Previously, your credit union received notification it was subject to requirements under Section 701.14 of the National Credit Union Administration Rules and Regulations. As a result of your credit union's CAMEL rating upgrade to a CAMEL “[enter CAMEL rating of 3, 2, or 1]” rating and removal from “troubled”*

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<sup>15</sup> NCUA will not designate a FISCU to be in “troubled condition” without first making an onsite contact at that FISCU.

<sup>16</sup> This situation will generally occur when NCUA does not participate on the examination and the state's CAMEL rating is a 4 or 5 (regardless of NCUA's CAMEL rating on the WCC 26 review); or if NCUA's CAMEL rating during a joint examination is a 3 or better while the state's CAMEL rating is a 4 or 5. In situations where NCUA did not participate and concludes a FISCU's CAMEL rating is a 4 or 5 during the WCC 26 review (and the state rating is a 3 or better), an onsite contact is required to be completed within 45 days. In such instances, the FISCU will be notified of their troubled status on the CAMEL disclosure issued during the onsite contact and not before.

*status, you are no longer required to obtain your state supervisor's and NCUA's approval for changes of officials and senior executive officers."*

- In instances where the state regulator is the last to upgrade a FISCO from "troubled condition" to a CAMEL composite 3 or better, and NCUA does not participate on the examination/contact resulting in the upgrade by the state, NCUA examiners will attempt to verify whether the state supervisor provided the FISCO with written notification of the removal of their "troubled status" via the examination report, separate letter, or otherwise. If notification by the state supervisor cannot be confirmed, the NCUA examiner will draft a letter notifying the FISCO of the removal of their troubled status using [Appendix 11-B](#) to be processed for RD signature through the examiner's supervisor, and the RO.

## **7. Call Report, Trending Analysis, and RATE**

The trending process is a means to identify and evaluate existing or emerging risk, highlight supervision needs, adjust supervision plans if necessary, and provide for a more effective allocation of examiner resources. The trending process is an integral part of the examiner's offsite supervision process and overall district management. Because examinations and onsite supervision contacts are performed at a specific point in time, offsite supervision provides for an ongoing awareness to any changing financial conditions, risk indicators, and/or emerging risks that may be developing in an examiner's assigned district(s).

The time examiners charge for data collection, validation, FPR review, risk report analysis, scoping, and trending changes for their districts (Work Classification Code (WCC) 20 or 21) should generally fall within the guidelines specified in the applicable Resource Budget Program:

- When NCUA processes the Call Report: 2 hours per cycle for each FICU and 1 additional hour for each manual FICU
- When NCUA does not process the Call Report: 1 hour per cycle per FICU

Examiners should use their discretion in charging the time allotted between uploading the call report and performing the risk review. Examiners should contact their supervisor if additional time is needed for the Call Report Risk Review process. Supervisors should approve additional time if the credit union profile warrants additional supervision hours.

### **A. Field Responsibilities**

- Process call reports for the assigned district;
- Review the warnings comments and historical warnings for each credit union. Contact credit unions when warranted to determine whether call report changes are necessary (for FISCUs, follow the agreements for the applicable states);
- Access the trending analysis system – introduced as RATE in June 30, 2012. RATE stands for Risk Analysis and Trending Evaluation tool.

- Download the 5300/FPR Trending System for each examiner's assigned district from Share Point;
- Complete the 5300/FPR Trending Dashboard<sup>17</sup> (see [Appendix 1-B](#) for snapshot of the 5300/FPR Trending Dashboard). This process should include an analysis of:
  - FPR;
  - Risk Reports; and
  - 5300 Call Report.
- Include comments about significant changes in risk and/or changes in supervision plans in the appropriate comment box; and
- Submit your review to your supervisor.

Examiners will need to complete the 5300/FPR Trending Dashboard for each credit union in their assigned district and submit to their supervisor. Examiners will have at least 75 days from the cycle date to complete their review.

<u>Cycle Date</u>	<u>Approximate RATE Due Date*</u>
March 31	June 15
June 30	September 15
September 30	December 15
December 31	March 15

\* E&I will post the actual due date in the application or notify staff through email.

## **B. Supervisor Responsibilities**

- Review the risk review reports submitted by examiners; and
- Notify the ARDP of any specific credit unions where supervision plans materially changed as a result of the risk reviews, necessitating material budget increases for supervision.

## **C. Division of Supervision (DOS) Responsibilities**

- Send out quarterly regional call report risk review deadline reminders consistent with the national due date.

## **8. Administrative Items**

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<sup>17</sup> The 5300/FPR Trending System is currently under development by E&I and OCIO. The tool is very similar to Region 2's current "watch list."

## **A. Notifying the Credit Union of the Examination/Supervision Contact**

When feasible, examiners should give credit union officials a minimum of five working days notice prior to starting an examination/supervision contact. Examiners should provide as much advance notice as possible. Examiners may start an examination/supervision contact without providing notice when the Examiner-in-Charge (EIC) desires to conduct a surprise contact due to weak internal controls. Examiners do not need credit union approval of examination scheduling, but whenever possible should reach agreement to minimize the disruption to the credit union and to ensure critical staff members are available while examiners are onsite.

As part of the notification process, examiners will provide the pre-examination letter (also known as the Items Needed for Examination template), found in AIREs. Examiner will send this letter a minimum of five working days prior to the start of an examination/supervision contact.

## **B. Timeframe to Complete Examinations/Supervision Contacts**

It is critical to ensure credit union officials receive timely information and take timely corrective action. Examiners will complete and upload all examinations/supervision contacts within 60 calendar days of the start of the examination/supervision contact. The start date is the date listed as the first day onsite in the Exam Management Console (EMC) in AIREs.

This 60 day timeframe is inclusive of all other exam related timeframes. Timeframes detailed in section 8D below can and will be shortened as necessary to meet this maximum timeframe of 60 days.

If completing and uploading an examination/supervision contact within 60 days is not possible, EICs will notify their supervisor and obtain approval to extend the timeframe. If the requested completion and upload date exceeds 90 days, the supervisor will notify and request advance approval from the ARDP. Examiners will document the rationale for the extension request and the SE or ARDP decision in the Confidential Section of the report.

Regions will maintain a cumulative report identifying credit union examinations/supervision contacts remaining open more than 60 days and provide this report to the ARDPs quarterly. ARDPs will review the report to evaluate if the extended examination periods were justified.

E&I will evaluate completion and upload timeframes not less than semi-annually to evaluate the efficiency and effectiveness of examination planning and scheduling.

## C. Team Member Responsibilities

Team members are responsible for providing the EIC with the documentation to support any recommendations (and discussed with management) before completing their onsite review.<sup>18</sup> Team memos do not replace a documented scope, applicable questionnaires, and assessment of risk ratings. At a minimum, the following should be provided to the EIC as applicable:

- Detail of time charged;
- Scope team export file including completed AIRE Scope Module<sup>19</sup>, comments on the final risk ratings, and recommended areas for review (when completing the Scope Module and areas of review, all team members will include their SME area in parenthesis, when applicable, next to their initials in the “Done by” column of the Scope Module);
- Loan Review team export file;
- Appropriate questionnaires;
- Examiner’s Findings;
- Document of Resolution (DOR) team export file (including comments in the DOR module on the credit union’s actions to address prior DOR items);
- Other work papers to support findings and/or recommended actions.

Before a team examination or supervision contact commences that includes three or more team members (including the EIC), the EIC will communicate individual responsibilities and any additional expectations for documentation to the team members<sup>20</sup> (typically through an email or team memo (Appendix 1-C)). At a minimum, the EIC will include:

- Location of the credit union, hours of operation, dress code, travel considerations (rental cars needed, lodging, etc.);
- Summary of existing and emerging concerns;
- Individual responsibilities and time budgeted; and

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<sup>18</sup> Team members can provide examination materials after completing onsite work only with EIC concurrence and the establishment of a defined delivery date.

<sup>19</sup> Throughout this manual, AIRE Scope Module also includes the Corporate Examiner Work Center (CEWC) for corporate examinations..

<sup>20</sup> “Team member” refers to any participating team member including any specialized examiner (RLS, RCMS, RISO, ISO, CMS, etc.).

- Expected documentation to be provided to the EIC.

The EIC is ultimately responsible for delegating and coordinating the work of the team members and the quality of the examination. This includes but is not limited to ensuring:

- Risk areas are adequately identified and assessed
- The examination report is cohesive
- Credit union management understands and agrees with the areas of concern
- An administrative record is well established in AIRES


#### **D. Examination/Supervision Completion Date and AIRES Upload Requirements**

Examiners will enter the examination completion date on the “Completion Information” tab of the EMC in AIRES. The examination/supervision completion date is the day the examiner last charged time to the examination and must be within five business days of the latest of the following dates:

- Date last onsite;
- Date of exit meeting; or
- Date of joint conference.

Within one business day of the examination completion date, examiners will upload the AIRES examination report including a completed Scope.

The five (5) days to complete and one (1) day to upload the examination/supervision contact are included in the 60-day examination timeframe requirement. For example, if the joint conference (or exit meeting or last day onsite) is on Day 58, the examiner has two (2) days to complete and upload the examination. Having the joint conference (or exit meeting or last day onsite) on Day 58 does not give an examiner the ability to extend beyond the 60-day timeframe, unless a waiver is obtained as outlined above. Similarly, if an examiner has the joint conference (or exit meeting or last day onsite) on Day 30, the examiner has until Day 35 to complete the examination/supervision contact and until Day 36 to upload the examination/supervision contact. Hand delivery of an examination report does not constitute ‘date last onsite’

	<p>The five (5) days to complete and one (1) day to upload the examination/supervision contact are included in the 60-day examination timeframe requirement. The 60-day close out requirement can only be extended through a waiver.</p>
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If the examination completion date exceeds five business days due to items such as conferences, training, annual or sick leave, the examiner will document the circumstance(s) in the Confidential Section.

If there is a delay in the AIRES upload, examiners will notify their supervisor and document supervisor concurrence and the reason(s) for exceeding the timeframe in the Confidential Section of the report.

#### **E. Delivering the Report to the Credit Union Officials**

When possible, examiners should deliver the final examination report or insurance review report at the joint conference or exit meeting. For compressed scheduling situations, examiners must deliver the DOR and Examiner's Findings (EF), if applicable, during the joint conference or exit meeting. Management and key officials should be aware of the major deficiencies before the joint conference (refer to Chapter 1, [Section 10](#) for additional information on joint conferences and exit meetings.)

In situations where the examiner is not able to deliver the report at the joint conference or exit meeting, the examiner must mail the report to the credit union within one business day of the examination completion date. If this timeframe cannot be met, the examiner must document supervisor concurrence in the Confidential Section along with the reason for delay.

#### **F. Electronic Copies of Reports**

Examiners may provide credit unions with an electronic copy of examination and supervision contact reports. The electronic copy can either replace, or be in addition to, the hard copy report depending on the credit union's preference. Electronic copies provided to credit unions should be in PDF format to prevent easy manipulation of the document.

The instructions for creating an electronic copy of the examination report are accessible through the AIRES program main menu, Help-Instructions. If an examiner sends the examination report via e-mail, they must use ZixMail, NCUA's secure e-mail program. The instructions for ZixMail are located in the [Hi-Tech Manual](#) (under Outlook 2010, ZixMail).

#### **G. AIRES File Size Limitation**

The Microsoft Outlook attachment limitation is 30MB for internal email. If an examiner is attempting to upload an AIRES file and it will not upload due to the size limitation, the examiner should contact the OCIO Helpdesk as early as possible. In these rare cases, OCIO will work individually with the examiner to allow for the file to be uploaded which may include decreasing the file size while still preserving the history and integrity of the exam/supervision information.

SSA examiners not using an NCUA.gov mailbox will be limited to 15MB.

#### **H. Required Workpapers**

Chapter 20, Appendix 20A, of the [Examiner's Guide](#) lists the required AIRES work papers that must be included in examination uploads. [Chapter 2](#) and [Chapter 3](#) include information for the documentation requirements for both onsite and offsite documentation

requirements for FCUs and FISCUs. Examiners will include additional work papers completed that contribute to the administrative record including team members' loan exceptions work papers and documentation submitted for other areas reviewed. The AIRES upload file should contain all documentation provided to management in the credit union's formal exam report and documentation produced by the examiner or exam team participants to support the report. Examiners generally should not include documents provided by the credit union unless information cannot be effectively documented elsewhere in the AIRES upload file.

- **AIRES Table of Contents:** The Table of Contents serves as NCUA's permanent record and documentation as to what was provided to credit union officials. Examiners will use the Table of Contents to organize the report given to the officials. The Table of Contents is a required work paper. Examiners are required to print the final copy of the examination report (using the print examination function within AIRES) **before** creating or uploading their examination file. The AIRES print examination function creates the Table of Contents in a PDF format and ensures the visibility of the Table of Contents in the examination upload file.
- **Required Questionnaires:** Include all questionnaires required by the most recent NCUA Instruction No. 5000.20, Risk-Focused Examination Scope, work papers, and team memoranda (if applicable), in the AIRES file.
- **AIRES Share and Loan Download:** Examiners are required to request an AIRES share and loan download for every examination. If a credit union will not or cannot provide an AIRES share and loan download, examiners will notify their supervisor while the on-site field work is in process. The SE will work with the examiner on options for obtaining the AIRES download (or an equivalent such as a text file with share and loan information). The examiner should document the options exercised to obtain the download (e.g. contacting other credit unions with the same vendor, contacting the vendor directly) and concurrence with the SE on the final outcome in the Confidential Section.

## **I. Deleting AIRES Files**

If an examiner needs a previously uploaded AIRES examination/supervision contact deleted, examiners will send a request including the credit union's charter number, effective date, contact type, along with a brief explanation to their region's DOS mailbox and copy their supervisor. After DOS deletes the file, they will notify the examiner and supervisor and indicate when the examiner will be able to re-upload.

## **J. Documented Secondary Review of CAMEL Ratings**

The supervisor with district responsibility for the credit union will review drafted examination and follow-up examination reports prior to finalization by the examiner in cases where a credit union presents higher risk, serious problems, or represents a material potential risk to the NCUSIF. The examiner's SE will have permissions to view the approved DSRC. At a minimum, supervisors will complete these reviews on



examinations, follow-up examinations, and on-site supervision contacts (involving a downgrade in the composite CAMEL rating to a 4 or 5) meeting the criteria below before the examiner is permitted to release the final report to the credit union:

- All examinations and follow-up examinations of credit unions with assets greater than \$250 million (effective date)
- All examinations and follow-up examinations of credit unions with a current or proposed CAMEL rating of 4 or 5
- All onsite supervision contacts (code 22 or 23) where the composite CAMEL rating changes to or from a 4 or 5.
- All examinations and follow-up examinations of credit unions with an NCUA proposed or outstanding Letter of Understanding and Agreement (LUA), Preliminary Warning Letter (PWL), Cease and Desist Order (C&D), or Other Discretionary Supervisory Action provided under Prompt Corrective Action
- All FISCUs with a proposed or outstanding administrative action issued jointly with or separately by the state regulator where NCUA participates on the examination

The supervisor is responsible for reviewing the report to ensure that:

- The scope is well developed and appropriate for the identified and indicated risks;
- All significant risks and problem areas are appropriately identified and communicated;
- Resolution plans are effective and timely for the type and proportion of risk;
- CAMEL and risk ratings appropriately reflect the level and direction of risk; and
- Recurring problem areas are appropriately escalated to more stringent action plans or administrative actions.

Examiners will, for credit unions identified for a DSRC: create the DSRC form in NSPM Tools, and email to the credit union's SE, exam support documents for review prior to report issuance no more than five business days after completion of the field work. If the 5 day timeline cannot be met, the SE may grant the examiner an additional 3 days to complete the task. The examiner will document the need for this additional time in the Confidential Section.

At a minimum, examiners must send the following:

- DOR (if applicable);
- Examiner's Findings (if applicable);

- CAMEL Evaluation Form
- Scope Module, including completed Final Assessment

Examiners must receive the supervisor's Secondary Review prior to releasing the exam report to the credit union officials or management.

Supervisors will perform a CAMEL review and provide the examiner feedback as documented in the DSRC within seven business days of receipt of the supporting documentation. Supervisors will evaluate and document the secondary review of CAMEL ratings on the DSCR. In those rare cases where the supervisor and examiner cannot reach consensus on the appropriate CAMEL ratings, the examiner should document in the Confidential Section the CAMEL ratings they were advised to adjust.

#### **K. Limiting Examinations in Process**

EICs will not have more than three examinations in process at any time without supervisor approval. Examiners will email their supervisor for concurrence documenting the reason(s) for exceeding the allowable number of examinations in process.

#### **L. EIC Rotation - Limits on Consecutive Years District Assignment**

[NCUA Instruction No. 5000.19, Examiner-In-Charge Rotation](#), dated November 23, 2005, describes the current policy for examiner rotation.

Supervisors will ensure adequate rotation of EICs occurs. ARDPs will monitor compliance with this requirement. The assigned ARD may approve exceptions on a case-by-case basis for extraordinary circumstances such as pending merger, liquidation, charter conversion, or resolution of an emerging material problem. The ARD will document all approved exceptions in writing, and the EIC will note said approval in the Confidential Section.

#### **M. Electronic and Hard Copy Field Files**

Examiners will maintain electronic field files for credit unions within their district. Examiners will maintain electronic correspondence between the Central Office, Regional Office, credit union, SSA, or any other related party within the electronic files. Upon transferring credit unions to another district, examiners will be responsible for transferring the credit union's electronic files to the new examiner.

If an examiner chooses to maintain hard copy field files, the examiner is responsible for maintaining the field files in accordance with [NCUA Instruction No. 13500.09, Security of External Party's Documentation](#) and [NCUA Instruction No. 1200.15, Rules and Consequences for Safeguarding Personally Identifiable Information](#). The field file should not contain confidential or sensitive information, unless properly secured to prevent disclosure to unauthorized parties. The contents of the field file are subject to examiner discretion. In some instances, the credit union may not have any significant problems and there may not be a field file.

## **N. Minimal AIRES Upload**

AIRES 2005 allows for a “Minimal Contact,” for uploading contact reports with limited information. This feature is available for off-site supervision. The minimum information required for a minimal contact is:

- CAMEL codes;
- Financial data;
- Time; and
- Completed Information Tab.

If an examiner chooses to download and import historical data, the EMC will display the imported information and the examiner will need to enter the CAMEL codes in the Exam.xls. Additional information regarding minimal contacts can be found in the [AIRES 2005 Manual](#).

## **9. Confidential Section**

The Confidential Section of the examination report is for NCUA’s internal use only. Examiners should document in the Confidential Section any actions taken during the examination not discussed elsewhere in the report.

The Confidential Section is the appropriate place to discuss management’s ability and willingness to correct areas of concern, as well as provide details of new or unique programs or services not discussed elsewhere in the report or in the AIRES Scope Module.

Examiners: Examiners will address the following in the Confidential Section:

- The number and type of attendees of the joint conference and/or exit meeting (e.g. 5 Board members, 1 Supervisory Committee member, SE Smith).
- Summary of subjects discussed (outside of what can be found in the open section) at the joint conference or exit meeting including agreements reached and acceptance of the DOR;
- Reasons management failed to take corrective action for any previous and outstanding DOR items or agreements relating to safety and soundness and/or plans for escalation of administrative action;
- Explanation of any CAMEL code differences or other differences during joint insurance reviews and joint examinations of federally insured state-chartered credit unions (FISCUs);
- Any approvals or concurrences from their supervisor or ARDP concerning conditions or actions taken during the examination (i.e., reject audit, no LUA with repeat DOR, issuing a PWL, LUA, EIC rotation exceptions, adjustments in CAMEL ratings, MBL waiver violations not presenting a heightened level of risk, etc.). The examiner will include the reasons for the recommendation, the anticipated date the problems will be resolved, the

recommended course of action if the problems are not resolved, and the examiner's plans for supervision;

- Any other pertinent information about management in order to maintain a full administrative record (e.g., management's and officials' ability to resolve issues, knowledge level of credit union operations, not providing an AIRES download);
- Any deviations from budgeted hours, documenting supervisor concurrence; and
- Reason why report not completed or uploaded within required timeframes (if applicable).



Remember records, including the Confidential Section, can be subpoenaed.

## 10. Joint Conferences and Exit Meetings

A joint conference is a meeting of the examiners and a sufficient number (quorum) of the board of directors to conduct official credit union business. A joint conference provides the examiner the opportunity to reach agreements with the board that they will take appropriate action for reducing levels of unwarranted risk in the credit union.

Examiners must hold a joint conference at the end of every examination and follow-up examination for CAMEL 3, 4, and 5 credit unions. In CAMEL 1 or 2 credit unions, a joint conference is not mandatory; however, examiners must make credit unions aware of the option of holding a joint conference by offering a joint conference to the board chair (or their designee, not to include a credit union employee) and document the decision in the confidential section. The examiner may also elect to hold a joint conference if the examination reveals substantive concerns or there is a need for a communication forum.

If a joint conference is not held, the examiner will hold an exit meeting. An exit meeting differs from a joint conference in that an exit meeting does not require a quorum of the board attend. Generally, attendance at an exit meeting consists of top management, key staff, and possibly one or more officials.

## 11. Communicating Directly with a Credit Union

### A. Informal Communication

Examiners may use e-mail as an informal means of communication with credit unions in place of, or in addition to, telephone calls. Examiners must use ZixMail,<sup>21</sup> NCUA's secure e-mail program, when discussing confidential matters with credit unions through email. Examiners may not share information obtained from a credit union with another credit union (such as sample policies, etc.) without the originator's expressed permission. In addition, examiners will not forward regional/central office email correspondence directly to the credit union.

### B. Formal Communication

Formal written communication with credit unions is typically initiated by the examiner and supervisor and processed through the Regional Office. Both Chapters 5 and 6 present common types of written correspondence. The appendixes of this Manual contain many types of templates. These templates contain the minimum documentation standards and should be used as a starting point when preparing credit union correspondence. Staff can also reference the [Correspondence Manual](#) for additional information. The following items apply to outgoing correspondence:

- In most cases, the RD's response is addressed to the BOD chair at the credit union's address with a copy to the CEO as appropriate. Correspondence is not typically mailed directly to the home of a BOD member unless there has been a

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<sup>21</sup> The instructions for ZixMail are located in the [Hi-Tech Handbook](#) (under Outlook 2010, ZixMail)

problem with the correspondence being delivered (e.g. there is a question of confidentiality, or if appropriate, in some cases of negative correspondence (like an RDL for significant violations or safety and soundness issues)). When mailing correspondence to the home address of any board member, the outgoing correspondence should be marked confidential and private. In special cases, DOS may mail correspondence to each board member's home or the supervisor may determine if delivering the correspondence in person is appropriate.

- Examiners and supervisors should be copied on all outgoing correspondence. The SSA should be copied on all outgoing FISCO correspondence.
- DOS has the discretion to add to the templates line items such as: cc and bcc recipients, "sent via FedEx – Signature Required", etc.

### **C. Writing Guidelines**

The NCUA is responsible for ensuring that agency personnel prepare documents intended for the public according to plain writing guidelines. Information relating to the [Plain Writing Act of 2010](#) can be found on NCUA's website. The plain writing guidelines used by NCUA personnel can be found at [Plain Language.gov](#). Plain language (also called Plain English) is communication your audience can understand the first time they read or hear it. Plain language is defined by results—it is easy to read, understand, and use. Staff should incorporate the following writing techniques to help achieve this goal:

- Logical organization with the reader in mind
- "You" and other pronouns
- Active voice
- Short sentences
- Common, everyday words
- Easy-to-read design features

The table below includes a checklist staff can reference when preparing written correspondence.

### **Document Checklist for Plain Language<sup>22</sup>**

✓ written for the average reader	✓ uses base verbs, not nominalizations (hidden verbs)
✓ organized to serve the reader's needs	✓ omits excess words
✓ has useful headings	✓ uses concrete, familiar words
✓ uses "you" and other pronouns to speak to the reader	✓ uses "must" to express requirements; avoids the ambiguous word "shall"
✓ uses active voice	✓ places words carefully (avoids large gaps between the subject, the verb and the object; puts exceptions last; places modifiers correctly)
✓ uses short sections and sentences	✓ uses lists and tables to simplify complex material
✓ uses the simplest tense possible—simple present is best	✓ uses no more than two or three subordinate levels

## **12. Communicating with Law Enforcement, Outside Audit Firms, or Other Federal Agencies**

Examiners (through their supervisor) must refer all inquiries from law enforcement, outside audit firms, or other federal agencies to the region's Division of Supervision. RD's should communicate knowledge of any law enforcement investigation to the NCUA Board, OGC, and E&I.

## **13. New Credit Union Supervision**

If an examiner is responsible for a new credit union, the following policies apply:

- Contact the credit union officials shortly after approval of the charter in order to arrange for the initial examination (usually within the first six months of operation);
- Perform a supervision contact within 60 days of initial operations, and within every 120 days thereafter for the first two years;
- Documentation requirements are the same as for follow-up examinations;
- Maintain open communication with the assigned Economic Development Specialist (EDS);

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<sup>22</sup> The Document Checklist for Plain Language is included on [Plain Language.gov](http://PlainLanguage.gov). More information about each of these standards can be found [here](#).

- Document compliance with the Letter of Understanding and Agreement (LUA) or Special Insuring Agreement (SIA) and adherence to the credit union’s business plan in the Status Update section of the report;
- Review all changes in management (officials and key personnel), and determine if changes in officials were approved by the RD and the SSA, if applicable, in accordance with §701.14e of [NCUA Rules and Regulations](#);
- Assess the need for assistance, including enrollment in the National Small Credit Union Program (NSCUP), and the creation of a mentor relationship with an established credit union; and
- Discuss findings and recommendations with management during a joint conference and deliver the appropriate sections of the report to the responsible officials.

The supervisor will provide a summary of the supervision provided, results achieved, and the prognosis for continued successful operations in the regional monthly management report.

## **14. Critical Case Credit Unions**

The term “critical cases” is used to define credit unions that pose the most significant emerging risk to the NCUSIF. Critical case briefings are part of the region’s risk management practices and provide regional management an opportunity to evaluate the need for enhanced supervision. This section provides examiners with insight into the purpose, selection criteria, and processes involved in critical case credit union briefings as well as providing structure on what to expect if critical case credit unions are identified within their district.

### **A. Developing the Critical Case List**

Periodically, regions will develop a listing of their top critical cases. Regional management will select critical cases based on the following:

- Recommendations from regional management and regional DOS
- Quarterly risk trending reports reviewed by regional DOS
- Monthly management reports listing problem cases
- Internal regional risk reports
- [High Risk Credit Union Pipeline Reports](#)<sup>23</sup>

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<sup>23</sup> The High Risk Credit Union Pipeline (HRP) identifies potential credit union failures and estimates the potential loss for high risk credit unions based upon select minimum criteria. Theoretically, any credit union that is rated as “Likely to Fail” in the HRP should show up on a critical case list. However, the credit union may meet the minimum criteria shown in the HRP Instruction, but the Regional Office may list the credit union as unlikely to fail. This does not mean that regional management cannot consider that same credit union as a critical case and monitor it closely. The HRP reports can be used as a starting point for the critical case lists – but regions may need to add credit unions to the list as they see fit. The HRP does not cover all the possibilities for a credit union to show up as a critical case. Removing a credit union from the critical case list is not the same as removing it from the HRP. [Instruction 4001, High Risk Credit Union Pipeline Reports](#) provides specific information regarding the HRP.



- Reports provided by E&I flagging select cases
- Other approaches at the discretion of the region

Regional management will compile a critical case list and share the cases with E&I. E&I will review case files and request attendance at selected critical case briefings each year based on critical cases of national significance and to monitor regional risk management approaches.

## **B. Critical Case Meetings - Preparing, Sending, and Reporting**

The purpose of critical case meetings/briefings is to discuss the case background, present status, prognosis, and supervision plans with regional management. The assigned examiner(s) will prepare and present critical cases at the briefings. The RD will determine the format of the critical case package prior to the meeting and communicate the format to examiners a minimum of ten business days in advance of the meeting. The examiner's supervisor will review the package(s) prior to submission to the Regional Office for quality and completeness as well as adherence to established standards.

## **15. Control Reports**

Control reports serve as a mechanism to ensure the agency has a robust examination program that is properly resourced and monitored for adherence to national examination and quality standards.

### **A. Regional Control Reports**

At a minimum, the regions will be responsible for maintaining the following control reports:

- MARS Reports – Regions will ensure MARS complete and reconciled each month;
- Budgeting – Regions will review necessary reports and resource budgets monthly to ensure completion and consistency with standards;
- Unresolved Recordkeeping Issues – Regions will be responsible for tracking outstanding recordkeeping concerns within their region's credit unions. Each quarter (at a minimum), the report should be reviewed and updated to reflect the status of the reported problem codes;
- Program Completion Reports;
- CAMEL 3, 4, 5 Detail, Status, and Exception Reports;
- [High Risk Credit Union Pipeline Reports](#);
- Quarterly PCA Reports; and
- Quality Control Reviews (QCR) Status and Exception Reports.

## **B. E&I Control Reports<sup>24</sup>**

E&I will run reports to evaluate the status of the national examination program and evaluate adherence to national standards including:

- Outstanding Recordkeeping Issues;
- Completion Target Exception Reports;
- DOR Tracking Reports to ensure resolution is achieved timely;
- MARS workload and completed examination/supervision contact reports;
- CAMEL 3, 4, and 5 MARS reports;
- Problem Credit Union Reports (3,4,5); and
- Other specialized reports as deemed appropriate.

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<sup>24</sup> Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions should ensure their current systems capture the requested information.

**Appendix 1-A**  
**Supervision Chronology Report**

**Contact Profile**

<b>CU Name</b>		<b>Region</b>	
<b>City, State</b>		<b>DSA/SE</b>	
<b>Charter/Ins#</b>		<b>PCO/EX</b>	
<b>CEO</b>		<b>Most Recent Onsite</b>	
<b>Phone #</b>		<b>CAMEL Rating</b>	
<b>Year Chartered</b>		<b>Assets</b>	
<b>FOM</b>		<b>Net Worth Ratio</b>	
<b>Low Income</b>		<b>ROA</b>	
<b>Underserved Area(s) Added</b>		<b>Asset Growth Ratio</b>	
<b>Effective Date of Initial Code 4/5 Assignment</b>		<b>Members</b>	
<b>Future Prospects</b>	(ex: upgrade, merger, liquidation)	<b># Branches</b>	

**Sponsor:** State chartered CU - primary FOM are various SEGs in USA County

**Management Evaluation:** CEO long-term 18+ years. CPA. Strong financial knowledge-but over the years has taken high risk.

**Root cause of problems:** Weak/aggressive lending and high risk ALM strategies.

**Supervision Planned:** Continued on-site contact until overall financial strength improves.

**Chronology of Contacts and Supervision**

**2011**

**6/2011 Examiner XXXXX Insurance Review**

**CAMEL 4= 4-4-3-5-3**

Completed the insurance review effective 3/31/2010. This was not a joint exam with the SSA. Despite changes and adjustments to policies, procedures and the balance sheet, conditions are not improving. It's going to take time. The downturn in USA County economic condition has stabilized. Insufficient to make a positive impact. Loan modifications remain a small percentage of the loan portfolio. No new mods since 2010. Operating expenses and costs are declining but not as fast as the decline in yield. Ongoing deterioration. The LUA remains in effect.

**5/2011 Examiner XXXXX**

**Offsite review CAMEL 4= 4-4-3-5-3**

Review of April board package. Preparation of “Top Case” information. Review of Cash Flow statement draft submitted by CEO. Several E-mail contacts with CEO throughout the month.

**4/2011 Examiner XXXXX**

**Offsite review CAMEL 4= 4-4-3-5-2**

Phone and e-mail contacts during the month to monitor progress. Review of board package. Review of DOR compliance status.

**3/10/2011 Examiner XXXXX Follow-up Exam**

**CAMEL 4= 4-4-3-5-3**

Review first quarter board packages and completion of monthly management reports. Completion of SATEX and review of trends. DOR follow-up. Review of ALM program, policies and procedures including recent investment purchases and borrowings. Reviewed Loan Modification program and sample modification loan review, TDR classifications and reserves. Review of ALL and methodology changes. ALL validation by external consultant. Compliance with LUA and DOR. Review of NW contingent capitalization plan – needs additional revisions/detail. Review of vendor receivables.

**2/2011 Examiner XXXXX**

**Offsite review CAMEL 4= 4-4-3-5-2**

Review of board package. Phone contact to discuss major income/expense items and deteriorating key ratios. E-mail contacts during the month to discuss purchasing loan portfolios or participations. Monitor progress.

**1/3/2011 Examiner XXXXX Onsite review**

**CAMEL 4= 4-4-3-5-2**

Onsite. Review of modified loan policies and sample review of modified loans. Complicated multi-dimensional modifications and forbearances. Required additional reserves over \$300k. Review of financial trends. Net losses from operations and declining NW; 5.31%. Delinquency decreased since December 2009 but charge off increased. 17/4 tests reflects a NW of 2.49%; 0.50% including Investment devaluation for a 94% negative change in NW. Since 2009, long term asset ratio increased to 42%. Borrowings at \$20 million.

**12/27/2010 Examiner XXXXX**

**Offsite review CAMEL 4= 4-4-3-5-2**

Review of November board package and completion of monthly management report. Completion and review of SATEX.

### Screen Shot of Call Report/FPR Trending Dashboard

[REDACTED] [C] [9] [VA]				Watch List:				Risk Dir				6/11	2010	2009	2008
[REDACTED] IDC: 159 2011Q1				Version 12.00				No List							
COMP_DATE: 2/16/2011				2 = 1 2 3 2 1				ContactDate 2/16/2011				1 - 2.01 NW< RBNW :			
EFF_DATE: 12/31/2010				NW: 9.26 ROA: 0.23				Strategic H →				2 - 2.02 NW< 6%:			
LAST_NAME: [REDACTED]				PAS: 109.52 DEL: 1.72				Interest Rate M →				3 - 2.03 NW< 7%; ROA< 50%:			
CONTACT: 10								Credit M →				4 - 2.04 Decline NW \$ > 15%:			
HOURS: 210								Transaction M ↓				6 - 3.01 Unfavorable Assets	Y	Y	Y
ASSETS: 145,845,460				Sup Comment:				Liquidity L →				7 - 3.02 Delinquency + C/O:			
Monitor the call report, check up with the CU mid-year regarding DOR completions.								Reputation L ↓				8 - 3.03 ALLL < 50% C/O ...:			
								Compliance H ↓				9 - 3.04 Loan Growth > 150%:			
								LE Comment				10 - 3.05 MBL Growth > 50%:			
								The credit union has made significant improvements in some areas but takes steps backwards in other areas. Financial condition is good				11 - 3.06 Indirect Loans > 25%:			
												12 - 3.07 Particip. Loans > 25%:			
												13 - 3.08 Complex Investmt Gr:	Y	Y	Y
												14 - 3.09 Brokered CD Growth			
												15 - 3.10 Interest Only/PO 1RE	Y	Y	Y
												16 - 3.11 RE Growth > 40%:	Y	Y	Y
												17 - 3.12 1st Other RE Gr> 25%			
												18 - 3.13 Loan Concentration:			Y
												19 - 3.14 Potential Loan Cover.	N/A	N/A	N/A
												20 - 4.1 Loser Current Cycle			Y
												21 - 4.2 Net Operating Exp Ch:			Y
												22 - 4.3 Net Interest Margin			
												23 - 5.1 Failed 17/4:	Y	Y	
												24 - 5.2 Net Long Term Asset:	Y		

**Appendix 1-C**  
**Sample Team Memo**

NATIONAL CREDIT UNION ADMINISTRATION  
REGION X

**TO:** PE [name] AND EX [name]

**CC:** SE [name]

**FROM:** PE [name]

**SUBJ:** [credit union name] Team Examination

**DATE:** [date]

We are scheduled to start the team examination of [credit union name] FCU #XXXXXX on [date]. This examination will have an effective date of [effective date]. Here is the list of team members, associated hours for this exam, and scheduled review areas:

- EX [name] -- 32 hours - ALM Review (on-site week of [date])
- EX [name] – 32 hours - Lending review (on-site week of [date])

You can work anytime from 7am to 7pm at the ABC Office located:

[CU address]

[City, TN Zip]

[Phone number]

The dress code is [type of dress]. [Parking, Travel, and/or Transportation Considerations, Lodging Options, etc.]

I plan to begin work at [time].

The CEO's name is [name].

The following request lists and questionnaires have been provided to the credit union:

- ALM general request list
- IRR and Liquidity questionnaires

**\*\*\*\*\*IF YOU HAVE ADDITIONAL INFORMATION YOU WOULD LIKE THE CU TO PREPARE FOR US, PLEASE LET ME KNOW ASAP.\*\*\*\*\***

I will provide a backup of the examination to you the first day you are on-site.

Please provide me a memo with the results of your review upon the completion of your work. Please include a section to address each of the topics listed below and any additional topics you feel are necessary.

#### **EXAM HOURS**

- Please provide the hours you have worked on this examination, and please indicate whether the time was on or off site.
- Provide me with any recommendations for changes to future budget hours.
- Provide recommendations for changes to the number of participants as well the addition/deletion of any SME's to the job.

#### **SCOPE**

- Please provide your input on what the final risk rating should be based on your review.
- Please provide any areas you recommend for review during the next examination.
- Provide the scope team merge file.

#### **OVERVIEW**

- Please provide an overview narrative, if applicable.
- Please provide discussion of the topic, indicate what is wrong, and provide guidance on how to address the issue.

#### **DOR**

- Please update and comment on all prior DOR items in the DOR module that relate to your area of review.
- Please discuss all DOR items with me prior to discussing them with management.
- After you have discussed the DOR items with me, please discuss with management and assure any questions management may have regarding your DOR items are addressed prior to your departure.
- Provide the DOR team merge file.

#### **EXAMINER'S FINDINGS**

- Please provide your Examiner's Findings in an Examiner's Findings document.

#### **CAMEL RATINGS**

- Please provide your input on what you feel the CAMEL rating should be for the area you reviewed and provide a brief supporting explanation.

#### **QUESTIONNAIRES**

- Complete all required questionnaires related to your area of review and complete optional questionnaires as you deem necessary.

#### **CONFIDENTIAL SECTION**

- Please provide me with any information you feel is necessary and appropriate to include in the confidential section.

<b>EXIT MEETINGS</b>
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- Schedule all exit meetings as soon as possible to assure all appropriate CU employees and NCUA staff can attend.
- Please discuss all findings with me prior to the exit meeting.
- Please discuss any issues with CU management prior to the meeting so there are no surprises.

**\*\*\*\*\*Return all materials provided to you by the credit union back to the appropriate person prior to your departure\*\*\*\*\***



## Chapter 2 – Federal Credit Union (FCU) Program and Procedures

NCUA's examination program institutes standards for a high quality examination process and establishes guidelines to:

- Identify and mitigate current and emerging risks to the NCUSIF (NCUSIF);
- Ensure credit unions are in compliance with applicable laws, regulations, and directives;
- Initiate appropriate corrective actions supported by a sufficiently detailed administrative record; and
- Facilitate timely resolution of supervisory concerns.

This chapter explains how examiners will supervise FCUs in their districts. Supervision efforts will vary depending on the size of the credit union, the risk to the NCUSIF, and other circumstances as applicable. Supervision includes, but is not limited to, examinations, follow-up examinations, onsite contacts, offsite contacts, offsite monitoring, and trending analysis (e.g. Call Report/FPR Trending). The examination and supervision program is the most important component of managing risk to the NCUSIF and protecting members.

### 1. Examination Planning

Planning and scoping is an integral component of the risk-focused examination program. An appropriate assessment of risk will result in an effective allocation of resources based on the level and type of risk present in the credit union.

#### A. Preliminary Assessment

The preliminary risk assessment drives the initial scoping for the risk-based examination. This assessment is documented in the preliminary risk assessment tab of the AIRES Scope Module.

Examiners – Examiners will focus on current and emerging risk indicators and evaluate preliminary risks. At a minimum, examiners will review and document each risk area in the AIRES Scope Module by reviewing the following items:

- The previous examination.
- The most recent FPR and any adverse financial trends in key areas, significant changes in the balance sheet structure, significant growth patterns, and significant changes in loan, investment, or share products.
- The areas of risk triggered by the most recent national and/or regional risk reports for the associated credit union.
- Any outstanding administrative actions.

Other items to consider include: Regional Office correspondence, regulatory waivers, issues related to the credit union's field of membership, mergers, external audit reports (as applicable), [economic information](#),<sup>25</sup> AIRES standard query reports, and additional prior examinations and supervision contacts.

## **B. AIRES Exam Scope (Scope Module)**

The Scope Module is the permanent record of procedures performed during an examination/supervision contact. All WCC 10 examination procedures will be guided by the expectations outlined in the most recent NCUA Instruction No. 5000.20, Risk-Focused Examination Scope.

Examiners – Examiners must thoroughly document the areas reviewed, the results, and the recommended action. Comments like "completed" or "inadequate" are not sufficient. Examiners must include a description of the area reviewed and results obtained, regardless of whether references to other work papers are included in the AIRES scope. The Scope Module should be a comprehensive synopsis of what occurred during the examination. A comprehensive scope will enable the examiner of the next examination to become familiar with the history of the credit union in a shorter amount of time. [Appendix 2-A](#) provides examples of sufficient scoping detail. When completing the Scope Module and areas of review, all team members will include their SME area in parenthesis, when applicable, next to their initials in the "Done by" column of the Scope Module.

EICs<sup>26</sup> are responsible for the sufficiency of the AIRES Scope. EICs need to continually evaluate the appropriateness of the scope and document procedures commensurate with the size and complexity of the credit union throughout the course of the examination. EICs will fully evaluate those areas representing a significant risk or potential risk to the credit union.

E&I – E&I will review, and update when necessary, the scope expectations in conjunction with changes in key risk indicators, economic conditions and regional concerns by January 1<sup>st</sup> of each year.

## **2. Membership Data Information**

Membership Data Information will be collected for all natural person federal credit unions in accordance with [NCUA Letter 09-FCU-03](#). Detailed instructions on Membership Data Collection can be found by clicking on the "extract" button on the Completion Information tab within AIRES.

## **3. FCU Examinations (WCC 10)**

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<sup>25</sup> For additional economic information outside of what may be included in AIRES, examiners can refer to [NCUA Instruction No. 5500](#), dated February 10, 2004 for guidance on using economy.com.

<sup>26</sup> For team exams/supervision contacts, the EIC should complete the scope in advance of the rest of the team's arrival onsite.

NCUA examiners will use WCC 10 for FCU examinations. Examiners will reference Appendix B in most recent NCUA Instruction No. 5000.20, Risk-Focused Examination Scope for required and baseline review areas. As noted in the Instruction, examiners are responsible for using their judgment to adjust the scope to focus on areas of heightened risk. When opting out of baseline review areas, examiners will provide justification in the Scope Module.

#### **4. FCU Supervision Contacts**

Supervision contacts typically fall into three categories: follow-up exams, onsite supervision contacts, and offsite supervision contacts. Examiners can refer to [Chapter 12](#) for a full listing of all the WCC definitions.

##### **A. Follow-Up Examinations<sup>27</sup> for Troubled/Problem FCUs (WCC 22)**

Follow-up examinations are more comprehensive than other onsite supervision contacts and require an analysis of data to support the CAMEL ratings and administrative action recommendations. Examiners will support in the scope, or by other means that can be made part of the administrative record, all of the critical problem areas identified during the regular examination. Before uploading an AIRES contact, examiners will indicate on the AIRES Exam Management Console (EMC) whether the supervision contact was a follow-up examination (yes/no button on the Completion Information tab in AIRES). Examiners typically only perform follow-up examinations on CAMEL 3, 4, or 5 credit unions.

At a minimum, examiners will perform a follow-up examination, which must include a joint conference with the board of directors, during the following intervals:

- CAMEL Code 3 > \$50 Million – NCUA examiners will perform a follow-up examination at least every 180 days (from completion date to completion date).
- CAMEL Code 4 or 5 > \$50 Million - NCUA examiners will perform a follow-up examination at least every 120 days (from completion date to completion date).

##### Timeframe Exceptions for Follow-Up Examinations

Examiners will consult their supervisor and request an extension via email if they cannot complete a follow-up examination within the required timeframe. The guidelines for requesting an extension are:

- CAMEL Code 3 > \$50 Million - Supervisors must approve extensions for follow-up examinations extending beyond the 180-day timeframe in CAMEL Code 3 credit unions and forward their approval to the region's DOS mailbox. The completion time frame may not exceed 240 days based on supervisor approval. The ARDP or ARDO,

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<sup>27</sup> With the creation of the NSPM, a new type of onsite supervision contact is now defined as a “follow up examination.” This is not a new practice in some regions, but to create national consistency, a follow-up examination is a type of onsite supervision contact applying to both FCUs and FISCUs.

as appropriate, must approve and document in writing any additional extensions and associated considerations. Any request for an extension of the 180-day requirement must include information demonstrating how the FCU will not represent increased risk to the NCUSIF resulting from the extended completion timeframe.

- CAMEL Code 4 or 5 >\$50 Million - The ARDP or the ARDO, as appropriate, must approve and document in writing extensions for follow-up examinations extending beyond the 120-day timeframe in CAMEL Code 4 or 5 credit unions. Any extension beyond the 120-day requirement must include information demonstrating that the FCU will not represent increased risk to the NCUSIF resulting from the extended completion timeframe.

Any approvals to exceed the above listed timeframes require the supervisor/ARDP, as applicable, to forward their approval via email to DOS with supporting documentation. All timeframe extension approvals will include a projected completion date.

#### Small Credit Union Supervision Requirements

CAMEL Code 3, 4 or 5 FCUs with less than \$50 million in assets may receive an onsite supervision contact in lieu of a follow-up examination. The supervision contact or follow-up examination will occur at the frequency described below.

- CAMEL 4 or 5 FCUs with less than \$50 million in assets: follow-up examination or supervision contact must be completed within 210 days of the examination. There is no waiver available for the 210-day completion requirement for CAMEL code 4, or 5 credit unions less than \$50 million in assets. If BSA or recordkeeping issues are present, the timeframes for those targeted review contacts will be followed and will not be considered the supervision contact necessary to meet this requirement unless all outstanding DOR items receive a full review.
- CAMEL 3 FCUs with less than \$50 million in assets: onsite supervision between examinations is at the discretion of the region. If BSA or recordkeeping issues are present, the timeframes for those targeted review contacts will be followed.

SEs/Examiners will use sound judgment to determine, on a case-by-case basis, the completion requirements for any FCU meeting these criteria (within the 210 days for CAMEL 4 or 5 FCUs), tailoring the supervision needs to the credit union. RDs and supervisors may require different completion timeframes or supervision plans for specific risks in a specific CU.

Examiners will support in the scope, or by other means that can be made part of the administrative record, all of the critical problem areas identified during the regular examination. The contact must include a joint conference with the board of directors.

Each region will establish monitoring procedures for follow-up examinations and timeframe extensions, until a national system is developed and implemented. The ARDP

will review the applicable report(s) and share them with the supervisors to evaluate appropriateness and timeliness of completion contacts to ensure a quality and timely supervision program.

#### Follow-Up Examination Documentation

Examiners document a follow-up examination by uploading an AIRES file, and charging time to WCC 22. At a minimum, the AIRES upload must include:

- AIRES historical download, Exam.xls, and all critical input areas;
- Sections within the Scope Module that were the subject of the follow-up examination including pertinent risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, “n/a” or “DNR” (did not review) will suffice;
- Documentation regarding compliance with any outstanding administrative actions (LUA, PWL, etc.,) in the Status Update;
- Documentation regarding compliance with any outstanding Net Worth Restoration Plan (NWRP) / Revised Business Plan (RBP) in the Status Update;
- Documentation of compliance or non-compliance with previous DOR items and updated DOR module;
- Written narrative report provided to the credit union (e.g. Examination Overview, Examiner’s Findings, etc.);
- Completed EMC including all questions and the date of the exit meeting and/or joint conference (a joint conference is required for all CAMEL 3, 4, and 5s, unless the supervisor approves an exception. In the event a quorum is not present, examiners will instruct the credit union’s management to note it in the board minutes and provide documentation to the examiner regarding whether management adopted the DOR at the next board meeting);
- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 (Appendix 1-A);
- Consumer Compliance Violation (CCV) module if applicable;
- Completed Confidential Section; and
- Sufficient AIRES work papers to support the scope of review and the conclusions drawn and any other information necessary to support the scope and time spent on the contact.

Examiners are required to issue a report to the credit union for follow-up examinations. Examiners will deliver the report as they would an examination report (as detailed in [Chapter 1](#)). Examiners must discuss required corrective actions, administrative actions, and provide relevant supporting sections of the report to the officials during the joint conference (e.g., DOR, Examiner's Findings, and other appropriate work papers such as the Supplementary Facts).

## **B. Onsite Supervision Contacts (WCC 22)**

An onsite supervision contact is more limited in scope than a follow-up examination. Examiners will typically perform an onsite supervision contact to review one major problem area, to hold a joint conference if it could not be completed as part of the exam, and/or to review the credit union's compliance with a DOR, etc.

Examiners will perform onsite supervision contacts as needed between regular or follow-up examinations based on the nature and severity of the problems or as their supervisor requires. Examiners will need to make each contact a results-oriented contact designed to achieve corrective action.

Credit unions with significant recordkeeping concerns require an onsite supervision contact focused on ensuring adequate attention to and correction of problems. The examiner will complete a follow up supervision contact within 60 days from the last contact's completion date. Examiners will continue to make on-site contacts every 60 days until resolution of all identified problems. The supervisor must approve in writing any extensions beyond 60 days. The ARDP must approve in writing any extensions beyond 90 days with notification to DOS. The examiner must document any extensions in the Confidential Section. Refer to [Chapter 5](#) for additional guidance for performing supervision contacts for credit unions with significant recordkeeping concerns.

### Onsite Supervision Contact Documentation

Examiners document an onsite supervision contact by uploading an AIRES file. At a minimum, the AIRES upload must include:

- AIRES historical download, Exam.xls, and all critical input areas;
- Sections within the Scope Module that were the subject of the contact including pertinent final risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, "n/a" or "DNR" (did not review) will suffice;
- Written narrative report provided to the credit union if applicable (e.g. Examination Overview, Examiner's Findings, etc.). Use the Confidential Section to document additional information when a report is not provided to the credit union and in place of a supervision contact memo;
- Completed EMC;

- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 (Appendix 1-A); and
- Any other information necessary to support the scope and time spent on the contact (e.g. updated and completed DOR module if focus of contact was to review compliance with DOR items, completed Consumer Compliance Violation (CCV) Module if focus was to review compliance violations, etc.).

Examiners will discuss their findings and recommendations during an exit meeting and issue a written report to the officials if the contact results in required action or changes are made to CAMEL or risk ratings.

### C. Offsite Supervision Contacts (WCC 27)

Offsite supervision is conducted somewhere other than at the credit union. At times, examiners will perform offsite supervision to follow up on outstanding concerns, review the credit union's response to a DOR, review monthly financial and/or board packages, respond to regional or national requests regarding credit unions in their district, or otherwise supervise, counsel, or interact with the credit union remotely (e.g., phone, email). Examiners will not change a credit union's composite CAMEL rating during a WCC 27 contact.

#### Offsite Supervision Contact Documentation

Offsite Contacts Eight Hours or More - A [minimal AIRES upload](#) or a "minimal contact" is required for all WCC 27 offsite contacts of eight hours or more. Examiners document an offsite supervision contact of eight hours or more by uploading a "Minimal Contact" report in AIRES and charging time to WCC 27. At a minimum, the AIRES upload must include:

- Completed EMC with documentation of the contact scope, progress, conclusions, recommendations, etc. in either the "Examiner Comments" section on the Completion Information tab of the EMC or, if more room is needed, in the Executive Summary or Supplementary Facts.

An AIRES upload with a completed Scope Module for offsite supervision is only required for a material change in risk ratings. Otherwise, the Scope Module is optional.



A minimal upload excludes Word and Excel files. Therefore, an examiner may need to bypass the "minimal upload" if they would like to include these types of documents in the upload.

Offsite Contacts Less Than Eight Hours - Time spent performing offsite supervision in increments less than eight hours for the same credit union should be aggregated and

uploaded on a quarterly basis. If the aggregate time charged in a quarter is less than eight hours, an AIRES upload is not required.

This does not apply to contacts for credit unions with BSA violations that must be resolved by a specific date. Examiners will complete an AIRES upload for BSA-related resolution contacts. Examiners should reference [Chapter 9](#) for information related to BSA enforcement.

#### **D. Monthly Financial Monitoring (WCC 27)**

Examiners must trend monthly financial data for all troubled institutions where the financial condition is a concern and the FCU represents significant risk to the NCUSIF (as in cases of large, troubled institutions). Examiners will charge this type of offsite supervision to WCC 27 and will upload a Minimal Contact.

Examiners should make every effort to receive monthly financials directly from the credit union. For example, a section of the DOR could request financial and/or board packets be sent on a monthly basis to the examiner. The supervisor will on a case by case basis:

- Notify the FCU when there is a change in district assignment or the monthly financial data is no longer needed; and
- Determine the format of the examiner's analysis and reporting requirements.

#### **E. Processing of Call Reports and Trending for FCUs (WCC 20)**

Examiners will perform offsite supervision while reviewing the Call Report, risk reports, FPRs, and other offsite monitoring tools for their district. Examiners will use WCC 20 for FCU reviews. Refer to [Chapter 1](#) for more information on trending.



**Appendix 2-A**  
**Sufficient Scoping Samples**

Current Area of Review	Results of Review
Review member business loan participations	3 MBLs reviewed. CU entered into 1 participation with Her FCU 8/10. Loan is collateralized by 9 rental properties consisting of 60 units. Appraisals for each respective property issued between 5/07 and 6/08 prior to market downturn. CU performed no further analysis to determine property devaluation. Risk not considered material given original LTV of 31% and properties located in PA where devaluation was minimal. Management encouraged to include reasonable market analysis when considering future MBL participations with outdated appraisals. No other material exceptions identified.
Review liquidity policies	Read policy, reviewed ALCO minutes, compared limits to current ratios and R&R. Policy stale, last updated 2009. No discussion in ALCO minutes of need to review or change policy during 10 month exam period. Policy thresholds are not perceived as reasonable. Limits are: loan-to-assets less than 90%, fixed assets 12%, and cash + short-term investments 4%. Fixed assets are 11.39% a loan-to-asset ratio of 90% would force the CU to borrow funds to support routine operations. High fixed assets due to prior RegFlex designation, FA will not be under 7% until 2014 based on current depreciation. Cash + short-term investments of 4% is not sufficient; historically, CU has ranged between 6 and 8% over past 3 years. See Overview and DOR.
Review of "IC - Financial Triggers" questionnaire (WCC 10 & WCC 11)	Completed questionnaire. The credit union experienced losses during 2009 and 2010 due to the economic environment, low loan/investment yields, stabilization expenses, and premium expense. Net worth declined from 10.30% in 2008 to 8.16%.
Review loan portfolio risk quantification / MDPA	CU not performing CLTV or credit migration analysis for RE loans. RE portfolio comprises only 11% total loans and 6.00% total assets, but management plans to expand

	RE lending and was advised periodic risk quantification analysis should be occurring. Management agreed to perform analysis. YCU updated credit scores for credit card loans during 2009 and reduced or suspended lines of credit for borrowers with credit scores below 560. Management was advised the analysis should occur more frequently and include migration as one of the criteria (i.e. a credit score declining by 100 points during a 12 month period).
Review Audit work papers	CPA work papers not reviewed at prior exam. Reviewed AUP audit effective 6/30/11 performed by XXX CPAs. Workpapers maintained in electronic format. Workpapers well-organized and audit adequate in scope and procedure. Audit period was 7/1/10 through 6/30/11; report dated 8/20/11. Report delivered within 120 days of the effective date as required.
Review internal audit calendar plan/schedule	CU has 2 internal auditors. Audit plan includes the verification, which is done every year. This is also done as a statistical sample by the CPAs. IA does 18 branch audits and many other audits that include the Fannie Mae quality control.
Review supervisory committee minutes	There are 4 committee members who meet every month. They go over the internal auditors' work and the chairman attends LCR, ALCO, Technology, and board meetings sometimes and reports back to the committee. SC follows up on exam/audit reports. They also review complaints from members. Reviewed minutes for one year.
Test reconciliations of bank and/or corporate statements focusing on the main transactional accounts (WCC10 & WCC 11)	Reviewed reconciliations for 2 corporate accounts and FRB. All items appear to clear off in a timely fashion. Completed the Cash on Deposit worksheets in Exam.xls. Tied each statement balance and GL balance on the recons back to supporting documentation.
Review Business Continuity Plan	CU developed a BCP and tests it annually. CU uses the results of the test to improve the plan. CU has 12 recovery teams to execute the plan. Each team has specific recovery related tasks. There is an established management succession policy for the plan should team leaders be unavailable. No

	problems noted.
Review Emergency Management Plan	Emergency management plan identifies each facility and locations and where they evacuate to during an emergency. Plan identifies team leaders, meeting places, phone numbers, emergency services by location. Plan describes disaster scenarios and actions to take. No problems noted.

## Chapter 3 - FISCU Program and Procedures

The State Supervisory Authority (SSA) is the primary regulator for FISCUs whereas; NCUA is responsible for managing risk to the NCUSIF. Supervision efforts at FISCUs will vary depending on the size of the credit union, the risk to the NCUSIF, and other circumstances as applicable. Supervision includes, but is not limited to, examinations, follow-up examinations, onsite contacts, offsite contacts, offsite monitoring, and trending analysis. (e.g. Call Report/FPR Trending). NCUA's FISCU examination program institutes standards for a high quality examination process and establishes guidelines to:

- Empower staff to work collaboratively with each SSA to assess the financial and operational condition of FISCUs.
- Identify, prioritize, and mitigate current and emerging risks to the NCUSIF.
- Ensure credit unions comply with applicable laws, regulations, and directives.
- Initiate appropriate corrective actions supported by a sufficiently detailed administrative record.
- Facilitate timely resolution of supervisory concerns.

FISCUs sign an Application and Agreement for Insurance and agree to comply with [NCUA Rules and Regulations](#) Part 741 when applying for federal share insurance. The Document of Cooperation (DOC) between the National Association of State Credit Union Supervisors (NASCUS) and NCUA is the overarching document laying out the principles and the relationship with SSAs and the insurance review process.

Each region maintains an operating agreement with each individual state. The operating agreements outline the method and procedures to monitor FISCUs for insurance risk. Regions will document any changes to procedures or any special arrangements made with an individual state in an addendum that NCUA's Office of General Counsel will review.

This chapter explains how examiners will supervise FISCUs in their districts and identifies the different types of FISCU examination and supervision options available for examiners. The examination and supervision program is the most important component of managing risk to the NCUSIF and protecting members.

### 1. Communication with the SSA

Open communication between NCUA and the SSA is critical to ensure a robust and effective management of risk to the NCUSIF posed by FISCUs.


#### A. Supervisor Responsibilities

The NCUA supervisor's interaction with the SSA is a critical link in this relationship. Therefore, the supervisor will be the primary party responsible for maintaining open and effective communication. The supervisor will maintain both formal and informal communication with the SSA. The supervisor will conduct such meetings as necessary to establish and maintain a positive relationship. However, in those states with few state-chartered credit unions or strong FISCU supervision programs, less frequent and/or more

informal communication may be sufficient. Regardless of the circumstances, supervisors should meet face-to-face with SSAs at least annually. The meetings will focus on scheduling, supervision, credit union problem resolution, and addressing issues between respective examiners.

In addition to the face-to-face meetings, the supervisor will maintain phone and email contacts with the SSA for complex or problem credit unions (e.g., credit unions >\$250 million in assets, credit unions exhibiting negative trends or insurability concerns, credit unions with a composite CAMEL rating of 4 or 5, and credit unions with a composite CAMEL rating of 3 or below which in the supervisor's judgment present a material risk to the NCUSIF).

Each December, supervisors will provide the SSA with a list of credit unions NCUA plans to conduct an examination/supervision contact. The supervisor will state the reason for NCUA going onsite and may expand or reduce the list throughout the year, as new financial data is available. This will eliminate unwelcome surprises and enable the SSA to plan for NCUA participation into their schedules.

	<p>NCUA reserves the right to go into any FISCU as frequently as warranted, based on risk to the NCUSIF, and may conduct an independent onsite contact when unable to coordinate a joint contact with the SSA. NCUA will notify the SSA prior to initiating any such contact and share the report with the SSA prior to submission to the FISCU.</p>
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## **B. Regional Director (RD) and Associate Regional Director (ARDP) Responsibilities**

The RD or designated ARDP will meet at least annually with the SSA. The meetings will focus on the operating agreement, discussing roles, responsibilities, and expectations for NCUA and the SSA.

## **2. NCUA's FISCU Program**

### **A. Disclosure of NCUA CAMEL and Risk Ratings**

Examiners will strive to disclose the NCUA CAMEL simultaneously with disclosure by the SSA but in no event later than the final meeting with management and officials.<sup>28</sup> The NCUA CAMEL and supporting rationale will be documented using the FISCU CAMEL Disclosure form in AIRES. The NCUA EIC will clearly identify the conditions supporting the individual CAMEL component ratings and CAMEL composite rating. The examiner will use and deliver to the credit union the following AIRES forms (at a minimum) to document the CAMEL disclosure:

- Region X –FISCUCAMELCoverLetter.doc

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<sup>28</sup> Final Meeting: The last on-site meeting with the credit union and NCUA present. In some cases, this will be the same as the exit meeting or the joint conference.

- Table of Contents
- CAMEL-Disclosure in FISCUs (in exam.xls)

For CAMEL composite 1 or 2 FISCUs requiring a Documented Secondary Review of CAMEL ([See Chapter 1, Section 8J](#)) the examiner, in consultation with their SE, may determine that sending the FISCU CAMEL Disclosure form via secured email or post with a teleconference to discuss the contents of the form is appropriate based on the concerns (or lack thereof) noted during the examination. This gives examiners and SEs sufficient time to review the CAMEL and risk ratings as required. The SSA will be invited to participate on the teleconference.

For CAMEL composite 3, 4 or 5 FISCUs, a joint conference is required to deliver the NCUA CAMEL. NCUA examiners may have to schedule a joint conference to disclose the NCUA CAMEL rating that provides time for their SE to perform a Documented Secondary Review of CAMEL if the Documented Secondary Review of CAMEL cannot be completed prior to the SSA's joint conference. The SSA will be invited to participate at the NCUA CAMEL disclosure joint conference.

#### Joint FISCU Examinations/Contacts:

*Examiner Responsibilities:* The NCUA EIC will assign component and composite CAMEL ratings during joint contacts based on the work and conclusions reached by both the SSA and NCUA examiners. For code 11 and 23 contacts, NCUA examiners will do the following:

- Work cooperatively with the SSA examiner in charge and maintain ongoing communications during the examination, which will include a meeting to discuss differences in CAMEL rating conclusions and attempts to resolve any component or composite differences with the SSA.
- In the event a component or composite rating differs from the respective SSA rating, and the EIC is unable to reach agreement with the SSA, the NCUA EIC will notify their NCUA supervisor and seek concurrence for their CAMEL ratings.
  - Once the NCUA Supervisor has concurred with the CAMEL ratings, the examiner will proceed to disclose NCUA's CAMEL as outlined above.
  - If the SSA does not disclose a CAMEL rating either onsite, or if done later than the final meeting, NCUA will still disclose its rating as outlined above.
  - In situations where the NCUA EIC issues a different component or composite CAMEL rating than the SSA, the EIC will document in the NCUA Confidential Section efforts to reach agreement with the SSA on the CAMEL rating.

*NCUA Supervisor Responsibilities:* The NCUA supervisor is responsible for ensuring the NCUA EIC supports the CAMEL rating and communicates actively with their SSA counterpart(s) to resolve differences. For code 11 and 23 contacts, NCUA supervisors will:

- Review supporting information with in-process examinations to provide concurrence for CAMEL ratings assigned to the FISCO when issuing a differing CAMEL rating; and
- Communicate with the SSA in advance to notify the SSA supervisory staff that NCUA has a differing CAMEL rating when the NCUA and SSA EIC cannot agree on a consistent CAMEL rating.
- Prioritize performing Documented Secondary Reviews of CAMEL for FISCUs in order to allow for the expeditious disclosure of NCUA CAMEL ratings to FISCUs.

*Regional Office Responsibilities:* The regional office is responsible for facilitating open communication with the SSAs and completing quality control over the assigned ratings.

#### CAMEL Differences during WCC Code 26 Reviews

This procedure applies to WCC 26 reviews where the NCUA examiner did not participate onsite during the examination and has not previously disclosed CAMEL to the FISCO as outlined above. As discussed in [Section 5](#) of this Chapter, NCUA examiners evaluate CAMEL when performing WCC 26 reviews of state examinations. For WCC 26 reviews, the following apply:

- When the examiner performing the code 26 review assigns the same rating as the SSA composite rating, no additional action is needed; unless, the composite rating is a 4 or 5. For newly downgraded CAMEL 4 or 5 FISCUs, the NCUA examiner must verify whether the FISCO was given notice of its troubled condition as outlined in [Chapter 1, Section 6](#).
- When the NCUA examiner assigns a different composite rating, but chooses to rate the credit union a composite CAMEL 1 or 2, no further action is needed.
- When the NCUA examiner's rating differs from the SSA composite rating and a composite CAMEL 3 is assigned by NCUA, the examiner, in concurrence with their SE, will determine the best course of action to more fully evaluate material risks. This may include obtaining, through the SE, additional examination information from the SSA before completing the code 26 contact or scheduling an onsite contact, as appropriate.

- When the NCUA examiner's rating differs from the SSA composite rating and a composite CAMEL 4 or 5 is assigned by NCUA, the examiner will schedule an onsite review sufficient to more fully evaluate material risks. The examiner may obtain, through their supervisory examiner, additional examination information from the SSA to more fully evaluate risks before completing the code 26 contact or scheduling an onsite contact, as appropriate.<sup>29</sup>

*Examiner Responsibilities:* The following process is used for WCC 26 reviews when the examiner assigns a CAMEL composite rating of 3, 4 or 5 which differs from the SSA assigned rating:

- The NCUA examiner will obtain supervisor concurrence for CAMEL differences with the SSA where NCUA issues a composite CAMEL 3, 4 or 5 rating.
- The NCUA examiner will work through their supervisor to schedule an insurance review or on-site supervision contact within the appropriate period of time, as outlined in [Chapter 3, Section 4E](#).
  - The purpose of the requested insurance review or on-site supervision contact will be to evaluate risk and reach conclusions on the appropriate CAMEL rating, as well as agreements for corrective action with credit union management.

*NCUA Supervisor Responsibilities:*

- Supervisors will assist the examiner in obtaining more information on material issues within an examination report as needed.
- Supervisors will follow up with the SSA to ensure insurance reviews or on-site supervision contacts are scheduled within a reasonable timeframe.

*Regional Office Responsibilities:*

- The regional office is responsible for facilitating open communication with the SSAs to discuss differences in CAMEL identified during code 26 reviews.
- ARDPs will decide whether NCUA examiners will perform a contact without SSA participation if joint contacts cannot be scheduled within a reasonable period of time. Documented ARDP approval is needed if a joint contact cannot be scheduled within a reasonable timeframe and NCUA does not perform its own insurance review or on-site supervision contact.

### E&I Responsibilities

E&I will monitor national and regional trends with respect to differences in CAMEL ratings and summarize the frequency and magnitude of CAMEL differences within regions and selected states

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<sup>29</sup> See Chapter 3, Section 4E for timeframes for completing the subsequent onsite contact. A credit union is not considered in 'troubled condition' based on an NCUA CAMEL rating until an onsite contact is performed. See Chapter 1, Section 6 for more information.



no less than annually. The goal for such reviews is to ensure the consistent application of CAMEL, especially in instances when NCUA CAMEL differs from SSA CAMEL.

## **B. NCUA Onsite Presence Criteria**

Onsite participation (including joint examinations, insurance reviews, and onsite supervision contacts) in FISCUs is necessary to effectively assess conditions that may pose a risk to the NCUSIF. For FISCUs greater than \$250 million in assets, NCUA will participate on annual examinations with the SSA or conduct insurance reviews. The RD will determine the onsite participation plans for FISCUs below \$250 million in assets as part of the annual resource budget process. Since SSAs vary in their approach to onsite supervision between full examinations, the degree to which each region can utilize SSA examination and supervision work will also vary.

NCUA will notify the SSA of all FISCUs selected for onsite contacts. Each Regional Office will provide the specific criteria and reports used in making these selections to the state to ensure their awareness of which credit unions NCUA will select for an onsite contact.

## **C. Examination and Supervision Planning and Scoping**

Planning and scoping is an integral component of the risk-focused examination program. An appropriate assessment of risk will result in an effective allocation of resources based on the level and type of risk present in the credit union.

## **D. Preliminary Risk Assessment**

The preliminary risk assessment drives the initial scoping for the risk-based examination. Examiners document their assessment in the preliminary risk assessment tab of the AIRES Scope Module.

Examiners will focus on current and emerging risk indicators and evaluate preliminary risks. At a minimum, examiners will review and document each risk area in the AIRES Scope Module by reviewing the following items:

- The previous examination;
- The most recent FPR. Discuss any adverse financial trends in key areas, significant changes in the balance sheet structure, significant growth patterns, and significant changes in loan, investment, or share products;
- The areas of risk triggered by the most recent national and/or regional risk reports for the associated credit union;
- Any outstanding administrative actions; and

- Other relevant items such as Regional Office correspondence, regulatory waivers, mergers, [economic information](#),<sup>30</sup> AIRES standard query reports, and additional prior examinations and supervision contacts.

## **E. AIRES Scope**

The scope is the permanent record of procedures performed during an examination or supervision contact. All WCC 11 examination procedures will be guided by the expectations outlined in most recent NCUA Instruction No. 5000.20, Risk-Focused Examination Scope.

Examiners must thoroughly document the areas reviewed, the results, and the recommended action. Comments like "completed" or "inadequate" are not sufficient. Examiners must include a description of the area reviewed and results obtained, regardless of whether references to other work papers are included in the AIRES scope. The Scope Module should be a comprehensive synopsis of what occurred during the examination or supervision contact. A comprehensive scope will enable the examiner of the next examination to become familiar with the history of the credit union in a shorter amount of time. [Appendix 2-A](#) provides examples of sufficient scoping detail. When completing the Scope Module and areas of review, all team members will include their SME area in parenthesis, when applicable, next to their initials in the "Done by" column of the Scope Module.

EICs<sup>31</sup> are responsible for the sufficiency of the AIRES Scope. EICs need to evaluate the appropriateness of the scope and document procedures commensurate with the size and complexity of the credit union throughout the course of the examination or supervision contact. EICs will fully evaluate those areas representing a significant risk or potential risk to the credit union:

Examiners will review these plans and determine whether the plans are reasonable and appropriate for the size and complexity of the credit union. Refer to the "Review Areas" worksheet in Exam.xls in AIRES for additional suggested scope areas. Examiners must adequately explain any changes from the preliminary risk assessment to the final risk assessment to justify the final risk ratings.

## **F. NCUA-SSA Joint Scoping**

Scoping for FISCO joint examinations and contact may vary and will consider the relationship with the SSA. Meeting(s) with the SSA examiner to establish NCUA's scope and support resources will be held prior to or at the start of fieldwork. The meeting may be a telephone contact or via secure email. The examiner responsible for setting up the

<sup>30</sup> For additional economic information outside of what may be included in AIRES, examiners can refer to [NCUA Instruction No. 5500](#), dated February 10, 2004 for guidance on using economy.com.

<sup>31</sup> For team exams/supervision contacts, the EIC should complete the Preliminary Risk Assessment and Current Area of Review section of the Exam Scope in advance of the rest of the team's arrival onsite.

meeting will depend on the working arrangement with each SSA. The examiner's objective of the scoping meeting is to:

- Discuss the issues initiating the contact
- Discuss any new information
- Define operational and financial concerns
- Establish review areas

NCUA's role in conducting joint examinations and contacts is limited to significant risk areas and compliance with laws and regulations for which NCUA has enforcement authority. When a review reveals additional safety and soundness concerns, examiners will expand the scope and review time in consultation with their supervisor. If agreements cannot be reached regarding NCUA's participation, including expansion of the scope, the NCUA examiner will contact their supervisor prior to or during the examination, who will discuss the matter with the SSA office. Supervisors will request ARDP involvement in the event the supervisor and the SSA office cannot resolve the issue.

When completing the Scope Module and areas of review, all NCUA team members will include their SME area in parenthesis, when applicable, next to their initials in the "Done by" column of the Scope Module.

### **3. Types of FISCO Examinations (WCC 11)**

NCUA examiners will create a WCC 11 for both joint examinations and independent insurance reviews. All Work Classification Code (WCC) 11 joint examinations and insurance reviews will be based on the scope guidelines noted most recent NCUA Instruction No. 5000.20, Risk-Focused Examination Scope. E&I will review, and update when necessary, the established scope guidelines in conjunction with changes in key risk indicators, economic conditions and regional concerns by January 1<sup>st</sup> of each year.

#### **A. Joint Examinations (WCC 11)**

The state examiner is the EIC for joint examinations unless otherwise agreed to by the SSA. NCUA examiners have the responsibility to ensure WCC 11 exams meet the scope guidelines specified in NCUA Instruction 5000.20. In the Scope Module, the NCUA EIC will note which scope steps the SSA performed. The NCUA EIC will ensure appropriate completion of the scope steps (as they would for any team member). If the work is adequate, the NCUA EIC can accept the work. If the SSA does not use AIRES and/or the examiner feels the scope will not be adequately completed by the SSA, the NCUA EIC will note this in their scope and document the SSA's work to the best of their ability (including possibly using the team merge function in AIRES to get the SSA's exam scope into the NCUA AIRES upload).

NCUA will make every effort to schedule joint examinations with the SSA in order to streamline the process and facilitate networking and cooperation between the two agencies. If NCUA and the SSA cannot schedule a joint examination, NCUA will conduct an insurance review.



## Joint Examination Documentation

For joint examinations, the final examination report will usually be a joint report, which encompasses both NCUA and SSA recommendations. If necessary, NCUA may issue an independent report. NCUA will notify the SSA of plans to issue a separate report prior to issuance to the FISCO.



In April 2011, a change to AIRES allows both an NCUA examiner and SSA examiner to upload a scope workbook for a WCC 11 with the same effective date.

For joint examinations, NCUA examiners should **exclude problem codes and violations from the WCC 11 upload** via the Data Communications section, Send Exam Tab of AIRES. NCUA examiners will review whether the state included the problem codes and violations and add any missing problem codes or violations as part of the Code 26 Review as outlined in Chapter 3, Section 5.

NCUA examiners must upload their own WCC 11 examination report to document the work performed by NCUA. The WCC 11 upload also serves to identify any discrepancies between information provided to the SSA for inclusion in the joint report. For WCC 11 Joint Examinations, NCUA examiners need to upload:

- NCUA-developed standard examination documents provided to the SSA such as: Overview commentary, DOR document, and Examiner's Findings.
- Sufficient AIRES work papers to support the scope of review and conclusions.
- Completed Scope Module for areas reviewed.
- Indication of compliance or non-compliance with previous DOR, LUA, NWRP/RBP items or agreements relating to safety and soundness.
- Completed Confidential Section including:
  - Discrepancies between the SSA-issued report and agreed-upon corrective action items, if applicable.
  - Follow-up with the SSA addressing any concerns with the SSA report, including discrepancy of corrective action items or lack of emphasis regarding NCUA concerns.

### Joint Conferences

If the SSA plans to hold a joint conference, the NCUA examiner will attend and participate in the meeting. If the SSA does not plan to hold a joint conference, the NCUA examiner must hold a joint conference for all CAMEL 3, 4, and 5s. In the event a quorum is not present, examiners will instruct the credit union's management to note it in the board minutes and provide documentation to the examiner regarding whether management adopted the DOR at a subsequent meeting. NCUA examiners will notify their supervisor of the date and time of the joint conference at least three business days in advance of holding the joint conference. The NCUA supervisor will notify the SSA staff of the date of the joint conference and invite them to participate.

### **B. Insurance Reviews (WCC 11)**

The NCUA examiner is the EIC for all insurance reviews. As such, it is NCUA's responsibility to ensure completion of the AIRES examination procedures and work papers.

The scope of an insurance review will focus on concerns with safety and soundness. Examiners will complete the examination scope steps (detailed in the most recent NCUA Instruction No. 5000.20, Risk-Focused Examination Scope), concentrating on areas of risk, including compliance with NCUA Rules and Regulations and other regulations that may represent a risk to the NCUSIF if the credit union failed to comply (see Chapter 26 of the Examiner's Guide).

### Insurance Review Documentation

At a minimum, documentation of an insurance review will include:

- Completed Scope Module.
- Indication of compliance or non-compliance with previous DOR, LUA, NWRP/RBP items or agreements relating to safety and soundness.
- Completed DOR module in AIRES, if applicable.
- Consumer Compliance Violation (CCV), if applicable.
- Status and management's acceptance of current DOR.
- Completed Confidential Section.
- Written narrative report provided to credit union and SSA.

### Joint Conferences

NCUA examiners must hold a joint conference for all CAMEL 3, 4, and 5s. In the event a quorum is not present, examiners will instruct the credit union's management to note it in the board minutes and provide documentation to the examiner regarding whether management adopted the DOR at a subsequent meeting. NCUA examiners will notify their supervisor of the date and time of the joint conference at least three business days in advance of holding the joint conference. The NCUA supervisor will notify the SSA staff of the date of the joint conference and invite them to participate.

If requested, the NCUA EIC will provide a copy of examination work papers outlining corrective actions and any related handouts to the SSA prior to meeting with credit union officials with the goal of allowing sufficient time for SSA review and feedback prior to the meeting. As a courtesy, the SSA should also have an opportunity to review the finalized complete insurance review report prior to issuance to the credit union. However, issuance of the report is at NCUA's discretion.

## **4. Supervision Contacts**

NCUA supervises FISCUs, based on the risk to the NCUSIF, through onsite contacts and offsite monitoring of statistical financial reports, etc. FISCUs presenting an increased insurability risk will receive onsite supervision contacts. The EIC and supervisor, in consultation with the ARDP, will determine the frequency and timing of onsite supervision contacts. Onsite contacts may be appropriate for focused reviews of identified risks, reduced or limited participation in a contact of a FISCU under \$250 million in assets, or for ongoing supervision of problem credit unions.

NCUA will make every effort to coordinate joint NCUA/SSA contacts but reserves the right to perform independent onsite contacts. For instance, if NCUA suspects fraud at a credit union, then an immediate onsite contact will be necessary.

NCUA may perform independent onsite contacts when necessary due to scheduling issues. NCUA will offer to provide the SSA a draft copy of solo NCUA contact reports prior to issuance to the FISCU. The SSA may also perform solo onsite supervision contacts. If the SSA issues a report, the NCUA examiner has the option of reviewing the SSA supervision reports and charging offsite supervision time to WCC 28.

NCUA considers the timing of the next SSA examination when scheduling onsite supervision. However, if a timely joint contact is not possible, NCUA may need to make an onsite contact independent of the SSA. The NCUA supervisor is responsible for contacting the SSA if onsite supervision is necessary prior to the next scheduled examination. If the NCUA supervisor and SSA cannot reach an agreement regarding necessary action, the supervisor will contact the ARDP who will further discuss the concerns with the SSA and make necessary arrangements either for a joint contact or an independent NCUA contact.

## **A. Follow-Up Examinations for Troubled/Problem FISCUs (WCC 23)**

Follow-up examinations are more comprehensive than other onsite supervision contacts and require an analysis of data to support the CAMEL ratings and administrative action recommendations.

### Follow-Up Examination Timeframes

At a minimum, examiners will perform a follow-up examination, which must include a joint conference with the board of directors, when the credit union is a:

- CAMEL Code 3 FISCU – In FISCUs with > \$250 million in assets, NCUA examiners will perform a follow-up examination in conjunction with the SSA at least every 180 days (from completion date to completion date).
- CAMEL Code 4 or 5 – In FISCUs with > \$250 million in assets, NCUA examiners will perform a follow-up examination in conjunction with the SSA at least every 120 days (from completion date to completion date).

In FISCUs < \$250 million in assets, the Regional Directors have authority to determine the risk priority needs of a follow-up examination and establish an alternate schedule based on regional risk priorities and impact to the NCUSIF.

Examiners will consult their supervisor and request an extension via email if they cannot complete a follow-up examination within the required time periods. The guidelines for requesting an extension are:


- CAMEL Code 3 with >\$250 million in assets – Supervisors must approve extensions for follow-up examinations extending beyond the 180-day timeframe in CAMEL Code 3 credit unions with >\$250 million in assets and forward their approval to the region's DOS mailbox.

The completion time frame may not exceed 240 days based on supervisor approval. The ARDP or ARDO, as appropriate, must approve any additional extensions. Any request for an extension beyond the 180-day requirement must include information demonstrating how the FISCU will not represent increased risk to the NCUSIF resulting from the extended completion time frame.

- CAMEL Code 4 or 5 with >\$250 million in assets – The ARDP or the ARDO, as appropriate, must approve extensions for follow-up examinations extending beyond the 120 day timeframe in CAMEL Code 4 or 5 credit unions with >\$250 million in assets. Any request for an extension beyond 120 days must include information demonstrating that the FISCU will not represent increased risk to the NCUSIF resulting from the extended completion time frame.



Any approvals to exceed the above listed timeframes require the supervisor/ARDP, as applicable, to forward their approval via email to DOS with supporting documentation. All time frame extension approvals will include a projected completion date.

	The basis for tracking the above timeframes will be the NCUA examination completion date for NCUA onsite participation (joint).
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Each region will establish monitoring procedures for FISCO follow-up examinations and timeframe extensions similar to what is required for supervision of FCUs. The ARDP will review the applicable report(s) and share them with their supervisors to evaluate appropriateness and timeliness of completion contacts to ensure a quality and timely supervision program.

#### Follow-Up Examination Documentation

Examiners will support in the scope, or by other means that can be part of the administrative record, all of the critical problem areas identified during the regular examination. Before uploading an AIRES contact, examiners will indicate on the AIRES Exam Management Console (EMC) whether the supervision contact was a follow-up examination (yes/no button on the Completion Information tab in AIRES). Examiners need to upload a completed Scope Module and sufficient AIRES work papers to support the scope of the review and conclusions.

The administrative record for FISCUs also needs to be comparable to FCUs, including maintenance of a Supervision Chronology Report ([Appendix 1-A](#)) as detailed in [Chapter 1](#) of this Manual.

All follow-up examinations will include a report to the FISCO. The final report may either be a joint report with the SSA or a stand-alone NCUA report. NCUA examiners must upload their own WCC 23 report to document the work performed by NCUA. The WCC 23 upload also serves to identify any discrepancies between information provided to the SSA for inclusion in the joint report. For WCC 23 follow-up examinations, examiners need to upload:

- AIRES historical download, Exam.xls, and all critical input areas;
- Sections within the Scope Module that were the subject of the follow-up examination including pertinent risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, “n/a” or “DNR” (did not review) will suffice;
- Sufficient AIRES work papers to support the scope of review and the conclusions drawn;

- Documentation regarding compliance with any outstanding administrative actions (LUA, PWL, etc.,) in the Status Update;
- Documentation regarding compliance with new worth restoration plan (NWRP) / revised business plan (RBP) in the Status Update;
- Documentation of compliance or non-compliance with previous DOR items and updated DOR module;
- Written narrative report provided to the credit union (or to the SSA to include in their report if applicable) (e.g. Examination Overview, Examiner's Findings, etc.);
- Completed EMC including all questions and the date of the exit meeting and/or joint conference (a joint conference is required for all CAMEL 3, 4, and 5s, unless the supervisor approves an exception. In the event a quorum is not present, examiners will instruct the credit union's management to note it in the board minutes and provide documentation to the examiner regarding whether management adopted the DOR at the next board meeting);
- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 ([Appendix 1-A](#));
- Consumer Compliance Violation (CCV) module if applicable;
- Completed Confidential Section including:
  - Discrepancies between the SSA-issued report and agreed-upon corrective action items, if applicable;
  - Follow-up with the SSA addressing any concerns with the SSA report, including discrepancy of corrective action items or lack of emphasis regarding NCUA concerns, if applicable; and
- Any other information necessary to support the scope and time spent on the contact.

When the SSA issues the report to the credit union, the NCUA EIC will work with the SSA to ensure the report includes required corrective actions, administrative actions, and provide relevant supporting sections of the report to the officials during the joint conference (e.g., DOR, Examiner's Findings, and other appropriate work papers such as the Supplementary Facts). The NCUA EIC will follow up to ensure the SSA issues the report timely. In the event the SSA does not issue a report as previously agreed or if the report is not timely, the NCUA EIC will notify their supervisor and plan to issue their own report (as discussed in the paragraph below).

When NCUA issues the report to the credit union, the NCUA EIC will deliver the report as they would an examination report (as detailed in [Chapter 1](#)). Examiners must discuss required corrective actions, administrative actions, and provide relevant supporting

sections of the report with the officials during the joint conference (e.g., DOR, Examiner's Findings, and other appropriate work papers such as the Supplementary Facts).

## **B. Onsite Supervision Contacts (WCC 23)**

An onsite supervision contact is more limited in scope than an examination or a follow-up examination. Examiners will typically perform an onsite supervision contact to review targeted risk area(s), to hold a joint conference if it could not be completed as part of the exam, and/or to review the credit union's compliance with a DOR, etc.

### Onsite Contact Timeframes

Examiners will perform onsite supervision contacts as needed between regular or follow-up examinations based on the nature and severity of the problems or as their supervisor requires. Examiners will need to make each contact a results-oriented contact designed to achieve corrective action. The NCUA EIC or supervisor will coordinate with the SSA as appropriate.

Credit unions with significant recordkeeping concerns require an onsite supervision contact focused on ensuring adequate attention to and correction of problems. The examiner will complete a follow up supervision contact for within 60 days from the last contact's completion date. Examiners will continue to make on-site contacts every 60 days until resolution of all identified problems. The supervisor must approve any extensions beyond 60 days with notification to the ARDP and DOS. The examiner must document any extensions in the Confidential Section.

The NCUA EIC in consultation with their supervisor will determine whether to accept the SSA's limited scope onsite contacts to resolve recordkeeping problems in place of an NCUA onsite contact. When review of an SSA report (WCC 26 Review) discloses material recordkeeping problems, the examiner will contact their supervisor and the SSA to determine if an onsite contact is necessary. Refer to [Chapter 5](#) for additional guidance for performing supervision contacts for credit unions with significant recordkeeping concerns.

### Onsite Contact Documentation

Examiners document an onsite supervision contact by uploading an AIRES file, charging time to WCC 23. Examiners need to upload a completed Scope Module and sufficient AIRES work papers to support the scope of review and conclusions. At a minimum, the AIRES upload must include:

- AIRES historical download, Exam.xls, and all critical input areas.
- Sections within the Scope Module that were the subject of the contact including pertinent final risk ratings. Examiners will document their explanations of any change of final risk ratings in the scope. For any areas not reviewed in the Scope Module, "n/a" or "DNR" (did not review) will suffice.

- Written narrative report provided to the credit union if applicable (e.g. Examination Overview, Examiner’s Findings, etc.). Use the Confidential Section to document additional information when a report is not provided to the credit union and in place of a supervision contact memo.
- Completed EMC
- Updated Supervision Chronology Report saved in the examination directory for a CAMEL 3 with assets \$250 million and greater, and CAMEL 4 or 5 (Appendix 1-A).
- Any other information necessary to support the scope and time spent on the contact (e.g. updated and completed DOR module if focus of contact was to review compliance with DOR items, completed Consumer Compliance Violation (CCV) Module if focus was to review compliance violations).

Examiners will discuss their findings and recommendations during an exit meeting and issue a written report to the officials if the contact results in required action or changes to CAMEL or risk ratings.

### **C. Offsite Supervision Contacts (WCC 28)**

Offsite supervision of FISCUs may be necessary in a variety of situations. Examiners conduct offsite supervision somewhere other than at the credit union. Offsite supervision of FISCUs may entail review of SSA supervision contacts completed between examinations (we asked the SSAs to supply the Regional Office copies of reports for any follow-up or supervision contacts. The Regional Office will send the district examiner a copy of all reports and correspondence received). Offsite supervision may also be necessary to perform a more detailed review of financial statements or progress in resolving outstanding issues from a prior examination that do not warrant onsite supervision. Additional examples of FISCU offsite supervision include reviews/monitoring of CAMEL 4/5 FISCUs, FISCUs with outstanding LUAs or NWRPs, and large CAMEL 3 FISCUs with strategic and/or financial concerns. The timing and scope of offsite supervision is at the discretion of examiners and their supervisor.

Examiners will not change a credit union’s composite CAMEL rating during a WCC 28 unless the WCC 28 is a review of an SSA onsite contact. When a WCC 28 is used to review an SSA onsite contact, examiners should follow the guidelines outlined under WCC 26 Reviews regarding disagreements in CAMEL and notification of troubled condition as outlined in various sections of this chapter.


#### **Documentation Requirements for Offsite Contacts Eight Hours or More**

A [minimal AIRES upload](#) or a “minimal contact” is required for all WCC 28 offsite contacts of eight hours or more. Examiners document an offsite supervision contact of

eight hours or more by uploading a “Minimal Contact” report in AIRES and charging time to WCC 28. At a minimum, the AIRES upload must include:

- Completed EMC with documentation of the contact scope, progress, conclusions, recommendations, etc. in either the “Examiner Comments” section on the Completion Information tab of the EMC or in the Executive Summary, Status Update or Supplementary Facts.

An AIRES upload with a completed Scope Module for offsite supervision is only required for a material change in risk ratings. Otherwise, the Scope Module is optional.

	A minimal upload excludes Word and Excel files. Therefore, an examiner may need to bypass the “minimal upload” if they would like to include these types of documents in the upload.
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#### Documentation Requirements for Offsite Contacts Less Than Eight Hours

Examiners will aggregate time spent performing offsite supervision in increments less than eight hours for the same credit union and upload to AIRES on a quarterly basis. If the aggregate time charged in a quarter is less than eight hours, an AIRES upload is not required.

This does not apply to contacts for credit unions with BSA violations that must be resolved by a specific date. Examiners will complete an AIRES upload for BSA-related resolution contacts. Examiners will reference [Chapter 9](#) for information related to BSA enforcement.

#### **D. Monthly Financial Monitoring (WCC 28)**

Examiners must trend monthly financial data for all troubled institutions where the financial condition is a concern and the FISCO represents significant risk to the NCUSIF (as in cases of large, troubled institutions). Examiners will charge this type of offsite supervision to WCC 28 and will upload a Minimal Contact.

Examiners will make every effort to receive monthly financials directly from the credit union. For example, a section of the DOR could request financial and/or board packets be sent on a monthly basis to the respective SSA and NCUA examiner. If the examiner does not receive monthly financials directly from the credit union, their supervisor will on a case-by-case basis:

- Work with the SSA office to determine the method for the NCUA examiner to obtain the monthly financial information needed and means for follow-up on requested reports.
- Notify the SSA and/or FISCO when there is a change in district assignment or the monthly financial data is no longer needed.

- Determine the format of the examiner’s analysis and reporting requirements.

## E. Reviews of SSA Examinations (WCC 26)

SSAs upload AIRES examinations in a similar fashion as NCUA examiners. When NCUA receives an SSA examination report (typically through AIRES) and a corresponding Scope Module (except from the non-participating states), examiners typically have three hours to review the SSA report. Examiners typically refer to this type of offsite supervision contact as a “Code 26 Review” because they charge time spent to WCC 26. In essence, a Code 26 Review is the time an examiner spends to identify financial and operational risks in FISCUs. There is a more detailed description of the WCC 26 review process later in this chapter.

Reviews of independent SSA examinations resulting in an NCUA CAMEL composite rating of 4 or worse, and the SSA CAMEL composite rating is better than NCUA’s CAMEL composite rating, require an onsite supervision contact to more fully evaluate material risks.<sup>32</sup> For CAMEL composite 4 or 5 ratings, an onsite supervision contact must be completed within 45 calendar days of completing the WCC 26 review to validate the CAMEL rating and trigger the “troubled condition” designation. Examiners must start this onsite contact within 5 business days of the WCC 26 review upload for the same FISCUs where there is an official or senior executive officer vacancy. The Executive Director must approve exceptions to this policy.



A Code 26 Review is not the measure for a “troubled condition” designation, the subsequent onsite contact is. See [Chapter 1, Section 6B](#) for more information on notices of troubled condition for FISCUs.

## F. Processing of Call Reports and Trending for FISCUs (WCC 21)

Examiners will perform offsite supervision while reviewing the Call Reports, risk reports, FPRs, and other offsite monitoring tools for their district. Examiners will use WCC 21 for FISCU reviews. Refer to [Chapter 1](#) for more information on trending.

## 5. Completing a Review of a State Examination (WCC 26)

Examiners will review all state examinations, regardless of whether they participated with the SSA or not. The effective date of the review must match the effective date of the AIRES WCC 11 examination.

<sup>32</sup> Examiners must consider the implications of the CAMEL composite rating on a FISCU’s “troubled condition” designation. Per §701.14, either the NCUA or the SSA can declare a FISCU in “troubled condition;” however, NCUA will not designate a FISCU to be in “troubled condition” without first making an onsite contact at the FISCU.



WCC 26 reviews are not required for supervision contacts performed by the SSA.

## **A. Receipt of SSA Examination**

The first step in completing a review of a state examination is the receipt of the SSA examination. For states using AIRES, examiners receive a confirmation email from SysAIRES notifying them of the examination report upload and they can use the link in the email to download the file. Otherwise, the SSA sends a hard copy of the report to the Regional Office who will then forward it on to the examiner.

## **B. WCC 26 Timeframes**

Examiners will upload WCC 26 reviews for FISCUs in their district within 30 calendar days of receipt. Supervisors may approve workload-based extensions up to 45 days. The 30 days will start the day examiners receive a confirmation email from SysAIRES notifying them of the examination report upload (or if the report is submitted hard copy, the day the Regional Office provides examiners with the report).

## **C. Review of the SSA Report**

When completing a WCC 26 review, examiners will:

- Determine whether the report identifies and addresses the material issues;
- Identify and document the SSA's supervision efforts and NCUA's supervision efforts;
- Determine the appropriateness of the SSA's supervision;
- Determine any CAMEL differences. Examiners will communicate, through their supervisor, any adverse differences in the composite rating to the SSA (e.g. CAMEL 3, 4 or 5);

If an NCUA examiner assigns a composite CAMEL rating of 4, or 5 during the WCC 26 review, and the NCUA CAMEL rating is worse than the rating the SSA assigned, and NCUA did not participate in the examination, the NCUA examiner will schedule an onsite contact to more fully evaluate material risks. [Chapter 3, Section 4E](#) outlines the required timeframes for completing the onsite contact;

- If it was a joint examination, document whether the material issues and agreed-upon concerns are in the final report, (e.g., Examination Overview, DOR);
- Determine if risk has been properly identified and addressed by the SSA;
- Document any material risk the examination report does not adequately cover;

- Recommend whether a joint examination or contact is necessary. If the concerns are significant, examiners may recommend a joint contact rather than wait until the next joint examination; and
- Document recommended actions or communication to resolve any material risk oversights or inadequate corrective action identified in the SSA report. For example, examiners may draft an RDL to the SSA if the report failed to identify or properly address material concerns. Examiners will first discuss the concerns with their supervisor, who in turn will discuss with their SSA counterpart. If the issue cannot be resolved at that level, an RDL may be necessary.

The review should not be a recap of the SSA's report but rather an analysis of the operational and financial condition of the credit union. Examiners will provide enough information to give a clear picture of this condition.


#### **D. Procedures in AIRES for WCC 26s**

Examiners perform all WCC 26 reviews in AIRES. Examiners will use the EMC and Scope Module to document the review. To complete the WCC 26 review, examiners will:

- Review the state report.
- Enter "26" in the contact type in AIRES.
- Complete the "Final Assessment" tab in the Scope Module.
  - Provide input for the Final Risk Assessment, Reasons for Risk Assessment, Anticipated Direction of Risk, and Reasons for Anticipated Direction, for each of the seven areas of risk.
- Complete the "Review of State Examination" questionnaire.
  - This requires examiners to answer the eight questions relating to the WCC 26 review. Examiners access the questionnaire labeled "Review of State Examination." via the hyperlink in the upper right hand corner of the "Final Assessment" tab. Examiners must provide comments for any question answered with "no" for questions 2-6.
- Complete the "Plans and Budget" tab in the Scope Module.
- - Complete this tab to show budget projections for the next examination cycle. Standard budgeted hours anticipated for call report review and WCC 26 reviews do not need to be included.
- Record their time and complete the "Completion Information" tab.



- Input problem codes in the DOR module needing to be tracked and not included by the SSA.
  - For items in the SSA report that meet NCUA’s definition of a DOR (see Chapter 11, Section 3), NCUA examiners are required to input the DOR, problem code and corrective action into the DOR module if the SSA did not do so in their AIRES upload (or if the SSA does not use AIRES). SSA DORs not meeting the NCUA definition may be input at the examiner’s discretion.
- Create new problem code(s) in the DOR module under “Items Excluded from DOR” if there are problem codes and corrective action items identified during NCUA examiner’s WCC 26 review but not identified in the SSA report.
- Input both the NCUA and SSA CAMEL ratings on the CAMEL worksheet in Exam.xls and input any comments concerning the CAMEL code and differences on this tab.
- Complete the CCV Module, as applicable, for any violations (i.e. significant BSA violations) not addressed or reported correctly in the SSA report.
- Discuss any plan of action with their supervisor, as applicable.
- Perform any necessary follow-up action (e.g. verbal communication with the SSA, RD Letter), as applicable.
- Upload the completed AIRES file.

	<p>If an NCUA examiner assigns a composite CAMEL rating of 4 or 5 during a WCC 26 review where the NCUA examiner <b>did not</b> participate onsite and the SSA CAMEL rating is better, the NCUA examiner must schedule an onsite contact to more fully evaluate material risks and before the FISCU can be considered in troubled condition. See Chapter 1, Section 6B and Chapter 3, Section 4E.</p>
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## 6. Requesting Additional Information from the SSA

Examiners notify their supervisor when the SSA report is lacking adequate information to determine the risk. Depending on the relationship with the SSA, the supervisor may contact the SSA or may reach an agreement with the SSA for the examiner to contact the SSA office or the SSA EIC directly to gather additional information. If the examiner does not receive the requested information, the examiner will draft an appropriate RDL and cover memo. The supervisor will also contact the SSA when the reviews or any other information reveals a need for an immediate contact at a specific FISCU.

## 7. Joint Conferences for FISCUs

Joint examinations of FISCUs with a CAMEL rating of a 3, 4, or 5 will include a joint conference with a majority of the board of directors. NCUA staff will attend these meetings, appropriately addressing all NCUA concerns. Examiners will disclose the NCUA CAMEL codes (components and composite) to the Board both verbally and in writing via the standard form.

The SSA examiner and NCUA EIC will hold an exit meeting in CAMEL 1 or 2 FISCUs if a joint conference is not necessary or requested. In this situation, examiners will disclose the NCUA CAMEL codes during the exit meeting. Exit meetings should occur as soon as possible after the completion of fieldwork subject to reasonable accommodation for SSA advance review of draft documents.

The timeframe for scheduling joint conferences and exit meetings should comply with the 60-day guideline for examination completion.

## **8. Issuing Reports to FISCUs**

Generally, during joint contacts, the SSA issues the final report and uploads the AIRES examination (some state exceptions do exist). The NCUA examiner will also upload an AIRES file. In instances where NCUA takes the lead, as a courtesy, the SSA should have an opportunity to review the finalized examination report prior to issuance to the credit union. However, issuance of the report is at NCUA's discretion. NCUA staff will invite the SSA to the joint conference.

NCUA examiners will provide the SSA EIC with the working papers of their review areas upon completion of the fieldwork. The NCUA EIC will draft sections or work with the SSA to draft sections of the Examination Overview, DOR, or comparable document pertaining to NCUA's areas of concern including documentation to support the report's findings and conclusions. The NCUA EIC will also work with the SSA EIC to include NCUA comments in the AIRES Scope Module for NCUA review areas.


To ensure the best possible results in resolving any anticipated dispute with the SSA examiner, the NCUA EIC will identify and discuss with the SSA examiner, as early as possible in the examination process, any corrective actions to be required of the FISCU, including respective CAMEL component and composite ratings.

Any disagreements concerning the content of documents will be resolved prior to meeting with FISCU management. If agreement is not possible at the examiner level, NCUA examiners will contact their supervisor who will discuss the matter with the SSA office and ARDP. If agreement is still not possible, examiners will draft a section for the SSA to include in the issued report titled "NCUA Concerns," which outlines these issues and required resolution. Examiners will work to obtain agreement from the SSA to include this section in the final report to management. Should the SSA not include this section, examiners will discuss these concerns with their supervisor, provide documentation in the WCC 26 review regarding the issues, and draft a RDL to the FISCU stating NCUA's concerns and necessary corrective action.

## 9. AIRES Uploads for FISCUs

Examiners will upload AIRES contacts for FISCU onsite contacts as they would for FCUs. As described in [Chapter 1](#), examiners will enter the examination completion date on the “Completion Information” tab of the EMC in AIRES. The examination/supervision completion date is the day the examiner last charged time to the examination and is required to be within five business days of the latest of the following dates:

- Date last onsite;
- Date of exit meeting; or
- Date of joint conference.

	If the examination completion date exceeds five business days due to items such as conferences, training, annual or sick leave, the examiner will document the circumstance(s) in the Confidential Section noting supervisor concurrence.
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## 10. Credit Union Enforcement Action

NCUA defines a problem credit union as one that either NCUA or the SSA rates a CAMEL Code 4 or 5. Either informal (RDL, DOR, LUA) or formal (C&D, Removal, Prohibition, etc.) enforcement action is necessary in all problem credit unions. In CAMEL Code 3, 4, or 5 credit unions, the supervisor will coordinate and consult with the ARDP and RD for concurrence before proceeding with a formal enforcement action recommendation consistent with other parts of this Manual and the [Enforcement Manual](#). NCUA and the SSA will coordinate enforcement actions such as a Letter of Understanding and Agreement (LUA), Cease and Desist Order (C&D), Conservatorship, or Liquidation.

Prompt Corrective Action (PCA) – NCUA will communicate with the SSA on an ongoing basis regarding all actions involving FISCUs taken under Part 702 of the [NCUA Rules and Regulations](#).

## 11. FISCU Consumer Compliance Program

[NCUA Instruction No. 12400.05](#) addresses compliance evaluation in FISCUs. If the SSA is responsible for determining consumer compliance in the FISCU, the SSA’s procedural responsibilities include:

- The SSA completes the consumer compliance checklists during the examination.
- If compliance violations are identified in the FISCU, the SSA will:
  - Enter the violation(s) in the CCV Module in AIRES (optional);
  - Input the problem code(s) in the DOR module; and
  - Provide a description (preferably using the Supplementary Facts document) of the problem/deficiency and the actions the credit union plans to initiate in order to resolve the situation.

- The SSA continues to upload the violation(s) in AIRES (or email the examination, including the compliance forms/documents, to the Regional Office).
- If a compliance violation exists, and the SSA did not complete the CCV Module in AIRES, the NCUA examiner completes it during the WCC 26 review. If the credit union is unable or unwilling to take corrective action, the NCUA examiner:
  - Reviews the situation;
  - Consults with their supervisor to determine what further action, if any, is needed on NCUA's part;
  - Seeks assistance from OGC working through the Regional Office if the violations are serious; and
  - Notifies their supervisor and the SSA of the determination.

## **12. NCUA Responsibilities Regarding Compliance Regulations in FISCUs**

NCUA has the enforcement authority in state-chartered credit unions for the following consumer regulations:

- Home Mortgage Disclosure Act - Reg C;
- Expedited Funds Availability Act - Reg CC;
- Flood Disaster Protection Act;
- Truth in Savings Act;
- Bank Secrecy Act (SSA has authority to review);<sup>33</sup>
- Depository Institution Management Interlocks Act;<sup>34</sup>
- Gramm-Leach-Bliley Act (Privacy of Consumer Financial Information); and
- Homeowners Protection Act (PMI disclosures).

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<sup>33</sup> While many SSAs have signed their own MOU with FinCEN, adherence to Part 748 is a requirement for federal insurance.

<sup>34</sup> Part 711 of [NCUA Rules and Regulations](#) discusses the provisions of the Depository Institution Management Interlocks Act (aka "Interlocks Act" or "Management Official Interlocks").

**Appendix 3-A**  
**Chapters 2 and 3 Comparison Matrix**

<b>Federal Credit Union and Federally Insured State Chartered Credit Union Examination and Supervision Reference Table</b>		<b>FCU</b>	<b>FISCU</b>
<b>Examinations and Joint Insurance Reviews</b>		X	X
	Time charged:		
	- Work Classification Code 10	X	
	- Work Classification Code 11		X
	NCUA EIC responsible for AIRES scope module	X	X
	Scheduling		
	- FISCUs > \$250 million – annual examinations		X
	- Regional Direction discretion for onsite participation for FISCUs < \$250 million		X
	- Examiners will make every effort to schedule joint examinations with the SSA to streamline the process. If a joint examination cannot be achieved, NCUA will conduct an insurance review.		X
	<u><i>FISCU Joint Examinations</i></u>		
	- Work Classification Code 11		X
	- Either a joint report with the SSA or a stand alone NCUA report issued to the credit union		X
	- Documentation: NCUA developed documents such as Overview commentary, DOR, Findings, AIRES work papers to support scope and conclusions, completed scope module, compliance or non-compliance with the Document of Resolution, Letter of Understand and Agreement, etc., completed confidential section, discrepancies between the SSA-issued report and agreed-upon corrective action items.		X
	- Participate in the joint conference held with the SSA, if applicable. If the SSA is not planning a joint conference, the NCUA examiner must hold a joint conference for all CAMEL 3, 4, and 5 credit unions.		X
	- An exit meeting will be held if a joint conference is not scheduled for CAMEL 1 or 2 FISCUs.		X
	- SSA invited to join all NCUA hosted joint conferences.		X
	- Joint conferences and exit meetings should comply with the 60 day guideline for examination completion.		X
	- NCUA CAMEL Rating Disclosure in AIRES will be provided to the SSA and credit union verbally and in writing.		
	<u><i>FISCU Insurance Reviews</i></u>		
	- Work Classification Code 11		X
	- NCUA Examiner is EIC (unless otherwise agreed to by the SSA)		X
	- Scope focuses on safety and soundness and NCUSIF concerns		X
	- Review limited to areas of risk, including compliance with NCUA Rules and Regulations		X
	- Documentation: Scope module, compliance or non-compliance with previous Document of Resolution, Letter of Understanding and Agreement, etc., Document of Resolution module in AIRES,		X

	<p>Consumer Compliance Violation module in AIRES, Management's acceptance of current Document of Resolution, Confidential section</p> <ul style="list-style-type: none"> <li>- Written narrative report provided to the credit union and SSA. If requested, the NCUA EIC will provide the report to the SSA prior to the joint conference and issuing it to the credit union.</li> <li>- NCUA EIC must hold a joint conference for all CAMEL 3, 4, and 5s.</li> <li>- An exit meeting will be held if a joint conference is not scheduled for CAMEL 1 or 2 FISCUs.</li> <li>- SSA invited to join all NCUA hosted joint conferences and exit meetings.</li> <li>- Joint conferences and exit meetings should comply with the 60 day guideline for examination completion.</li> <li>- NCUA CAMEL Rating Disclosure in AIRES will be provided to the SSA and credit union verbally and in writing.</li> </ul>		<p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p>
	<p><u>FISCU Scoping</u></p> <ul style="list-style-type: none"> <li>- Meet with the SSA to establish NCUA scope and support resources prior to start of field work</li> <li>- NCUA EIC responsible for reporting on all significant risk areas including laws and regulations for which NCUA has enforcement authority.</li> <li>- NCUA EIC will document in the scope module which minimum scope steps the SSA performed.</li> </ul>		<p>X</p> <p>X</p> <p>X</p>
	<p><u>Communication with SSAs</u></p> <ul style="list-style-type: none"> <li>- Regional Director/ Associate Regional Directors and supervisors will meet with SSAs at least annually</li> <li>- Each December, supervisors will provide a list of credit unions NCUA plans to conduct a joint contact/insurance review. This list will be updated as needed.</li> </ul>		<p>X</p> <p>X</p>
<b>Supervision Contacts</b>		<b>FCU</b>	<b>FISCU</b>
	<u>Follow-up Exam</u> - CAMEL 3, 4, and 5 credit unions – analysis of data to support CAMEL ratings and administrative action recommendations	X	X
	Joint conference with the board of directors required	X	X
	<p>Time Charged</p> <ul style="list-style-type: none"> <li>- Work Classification Code 22</li> <li>- Work Classification Code 23</li> </ul>	X	X
	<p>Timeframes: CAMEL Code 3 (completion date to completion date)</p> <ul style="list-style-type: none"> <li>- At least every 180 days</li> <li>- FISCU &gt; \$250 million – at least every 180 days</li> <li>- Supervisor can approve a waiver for up to 240 days. Additional extensions must be approved by Associate Regional Director.</li> </ul>	<p>X</p> <p>X</p>	<p>X</p> <p>X</p>
	<p>Timeframes: CAMEL Code 4 or 5 (completion date to completion date)</p> <ul style="list-style-type: none"> <li>- At least every 120 days</li> <li>- FISCU &gt; \$250 million – at least every 120 days</li> </ul>	<p>X</p> <p>X</p>	<p>X</p> <p>X</p>

		- Associate Regional Director must approve extensions beyond the 120 day timeframe.		
		FISCUs < \$250 million – Optional Regional Director supervision requirements		X
		Documentation		
		- AIRES upload including historical download, Exam.xls, critical input areas, scope module, work papers to support conclusions, compliance with administrative actions, compliance/non-compliance with previous DOR items, written narrative to the credit union, date of exit meeting or joint conference, consumer compliance violation module, Confidential section, other information to support the examination	X	X
		- CAMEL 3 with Assets > \$250 million and all CAMEL 4/5: Updated Supervision Chronology Report	X	X
		- FISCU Confidential section: Discrepancies between SSA issued report and agreed upon actions	X	X
		- A report must be issued to the credit union		X
		- FISCUs: SSA issues the report - EIC will work with the SSA to ensure the report includes required corrective and administrative actions		X
		- FISCUs: NCUA issues the report – same process as FCUs		
		<u>Onsite Contacts</u> – more limited than follow-up exam; review of one major area or compliance with DOR, etc.	X	X
		Time charged		
		- Work Classification Code 22	X	
		- Work Classification Code 23		X
		Timeframes		
		- Scheduled and conducted as needed.	X	X
		- Significant recordkeeping follow-up required within 60 days from the last contact's completion date. Onsite contacts required every 60 days until issues are resolved.	X	X
		- Supervisor must approve any extension beyond to 60 days with notification to the Associate Regional Director	X	X
		EIC and supervisor may substitute limited scope onsite contact completed by the SSA in place of a NCUA onsite contact		X
		Documentation		
		- AIRES upload including historical download, Exam.xls, critical input areas, scope module, written narrative to the credit union, completed Exam Management Console, Confidential section, other information to support the contact	X	X
		- CAMEL 3 with Assets > \$250 million and all CAMEL 4/5: Updated Supervision Chronology Report	X	X
		- Report must be issued to the credit union	X	X
		Findings and Recommendations discussed at an exit meeting	X	X

	<u>Offsite Contacts</u> – follow-up on outstanding concerns, review responses to a DOR, review monthly financial data and/or board packages, review of SSA reports, etc. Includes monthly financial monitoring and trending of financial data.	X	X
	Time charged - Work Classification Code 27 - Work Classification Code 28	X	X
	Documentation (contact over 8 hours) - “Minimum contact” AIRES upload including: completed Exam Management Console and documented contact scope, progress, conclusions, and recommendations. - Completed scope module only required if there is a material change in the risk ratings.	X  X	X  X
	Documentation (contact 8 hours or less) - Time aggregated and uploaded on a quarterly basis. If total quarterly time is less than 8 hours, an AIRES upload is not required - Exception: AIRES upload required for all BSA-related resolution contacts	X  X	X  X
	If the NCUA CAMEL code is 3 or worse and lower than the SSA CAMEL rating, examiner will complete an onsite contact in the FISCU.		X
	<u>Processing of Call Reports and Trending</u> – quarterly offsite supervision reviewing the 5300s, risk reports, FPRs, and other offsite monitoring tools	X	X
	Time charged - Work Classification Code 20 - Work Classification Code 21	X	X
	<u>Review of SSA Examinations</u> – Required review of uploaded SSA examination reports regardless of whether the examiner participated on the exam or not.		X
	Time charged: Work Classification Code 26		X
	Timeframes - Must be completed within 30 days of receipt of the state examination report or email notification of the examination report upload - Supervisors may approve an extension up to 45 days		X  X



		<u><i>Procedures</i></u> <ul style="list-style-type: none"> <li>- Review will be completed within AIRES using the Exam Management Console and the scope module</li> <li>- Examiners will add any problem codes needed beyond those inputted by the SSA</li> <li>- Supervisors will request additional information from the SSA if the report is lacking adequate information to determine the risk.</li> <li>- If the NCUA CAMEL code is 3 or worse and lower than the SSA CAMEL rating, examiner will complete an onsite contact within timeframes specified in <a href="#">Section 4E</a>.</li> </ul>		X  X  X  X

## Chapter 4 – Quality Assurance Program

NCUA's Quality Assurance program includes the assessment and review of all activities relating to the oversight of FICUs. This chapter will cover the quality assurance processes used to carry out the Agency's safety and soundness mission. NCUA's quality assurance objectives are to evaluate whether the agency's supervision program complies with national requirements and that national requirements keep pace with the ever-changing risks inherent in or introduced into the credit union industry.

This chapter describes the quality assurance program and the quality control report processes supervisors and the regional DOS use to evaluate and review FCU and FISCU examination reports and supervision work.

### KEY CONCEPTS & TERMINOLOGY

**Quality Assurance (QA):** The continuous process of verifying whether supervisory and oversight activities meet NCUA's established requirements.

**Quality Control Reviews (QCR):** Actions taken on items or activities to verify adherence to specified requirements. The QCR element is generally included as a segment of QA.

**Quality Control Review Forms:** Tools designed to identify risks to the NCUSIF, evaluate whether an individual examination or supervision contact report meets national standards, and provide a written assessment of that report.

**Supervisor Evaluation Form (SEF):** A tool designed to evaluate an examiner's report for appropriateness of problem resolution, overall report construct, e.g., tone, grammar, and proper use of the DOR. Additionally, the SEF is a development tool that both the supervisor and examiner can use to identify strengths and areas requiring improvement or further development.

**Risk Analysis Trending and Evaluation (RATE) Form:** A tool used to document quarterly risk reviews of natural person credit unions.

**Scanned Reviews:** After the examiner uploads the report, a cursory review of select examination data and financial trends to assess the level of risk present and to assist the supervisor in determining the level of review necessary.

**Documented Secondary Review of CAMEL Ratings:** A review completed in advance of delivery to credit union officials when a credit union meets specific risk criteria.

**Full Reviews:** A comprehensive and detailed review of the examiners work product performed after upload and will include applicable work papers.

## **1. Quality Assurance Goals**

The following four goals describe the broad areas used to evaluate the effectiveness of the overall supervision program:

- **Early Identification:** Timely identification of credit union problems is a critical component of the supervision program.
- **Results Driven:** Reports are results-oriented. Communication with officials is timely, with recurring issues addressed using the appropriate progressive administrative/enforcement tools.
- **Consistency:** Ensure uniform application of examination, insurance, and supervision policies, procedures, and standards within the agency.
- **Staff Development:** Ensure examiner staff is provided consistent and timely feedback regarding their work to improve the examiner's skills and the supervision program.

The three main contributors to the examination and supervision Quality Assurance program are DOS, supervisors, and E&I. Each Quality Assurance segment and corresponding responsibilities will be addressed separately below.

## **2. Quality Assurance Responsibilities**

### **A. E&I Responsibilities**

Develop examination and supervision programs for all FICUs, including:

- Select a statistically valid sample of QCRs and SEFs annually, across regions, to evaluate and to report the consistency of the regional quality control programs;
- Disseminate the results of E&I's Quality Assurance assessments to the regions generally within 30 days; and
- Review and tailor the Quality Assurance program as needed to remain effective and proactive while still meeting national needs. To accomplish this task, E&I will obtain regional input to enhance the program.

### **B. Regional Director Responsibilities**

- Ensure compliance with regional aspects of the NSPM;
- Provide for review of all Supervisor Full Reviews;
- Monitor monthly reports; and

- Take appropriate action to address issues noted.

### **C. DOS Responsibilities**

- Assess the region's consistency of application and compliance with national goals and directives;
- Conduct an independent QCR of examination and supervision reports;
- Distribute QCR results to ARDs and supervisors;
- Refer QCR Forms with material concerns to the Regional Director for action as appropriate; and
- Compile completed QCRs and supervisor evaluations for distribution to regional management.

### **D. Supervisor Responsibilities**

- Perform Scanned Reviews;
- Perform Documented Secondary Review of CAMEL Ratings;
- Perform Full Reviews; and
- Complete other requirements as outlined in the NSPM.

### **E. Examiner Responsibilities**

Examiners are ultimately responsible for the issuance of the final report and the quality of the examination. To that end, the examiner actively participates in the Quality Assurance process and has the following responsibilities:

- Submit required documents when requesting a Documented Secondary Review of CAMEL Ratings from their supervisor (as applicable);
- Review all QCRs of work performed;
- Review all supervisor feedback on the provided Supervisor Evaluation Form;
- Determine if any adjustments are needed regarding the supervision of the credit union or examination practices; and
- Consult with the supervisor when a significant disagreement with the QCR and/or Supervisor Evaluation Form is identified.

Examiners should discuss their concerns with issues raised in a QCR with their supervisor to determine a course of action (this may include a response memo addressing disagreements with the QCR as discussed in the QCR Appeal Process section of this chapter).

### **3. Quality Control Process**

The primary Quality Assurance process for the examination and supervision functions consists of a Quality Control Review (QCR). The QCR Form, along with the Supervisor Evaluation Form, are the agency's tools designed to evaluate whether an individual examination or supervision contact report meets national standards, provide a written assessment of the report, and assess the adequacy of ongoing supervision. The QCR Form and Supervisor Evaluation Form are intended to be both a learning tool and feedback mechanism for the examiner and supervisor. The evaluation and rating of field staff performance remains the responsibility of the supervisor.

E&I will establish (with regional input), from time to time, the specific contents of the QCR Form for each type of examination and supervision contact. The scope of each review may vary in accordance with the type of contact or targeted review objective.

To ensure a consistent risk-focused approach is used to evaluate the effectiveness of the supervision program, the agency will use a national QCR database. The database contains the examination and supervision review forms in addition to the Risk Reviews,<sup>35</sup> and the Supervisor Evaluation Form.<sup>36</sup>

Any examination, follow-up examination, or supervision contact can be selected for a quality control review at the discretion of management.

### **4. Examination and Supervision QCR Minimum Selection Criteria**

#### **A. FCU Quality Control Selection**

Each region's DOS will perform QCRs on any examinations meeting the following criteria:

- All credit unions coded CAMEL 3 with assets greater than \$100 million;
- All credit unions coded CAMEL 3 for longer than 36 months and with assets greater than \$50 million;
- All credit unions coded CAMEL 4 or 5 with assets greater than \$10 million; and
- All credit unions with assets greater than \$250 million.

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<sup>35</sup> 5300 Call Report Risk Reviews requirements are outlined in [Chapter 1](#).

<sup>36</sup> Until these tools are completed, regions will continue to use their existing QCR processes until the NSPM system is fully functional. However, regions should use NSPM QCR selection criteria as of the NSPM's implementation date.

In addition, each region's DOS will perform QCRs on any examination or follow-up examination where the credit union is subject to a formal administrative action<sup>37</sup> as discussed in [Supervisory Letter 10-04 Administrative Remedies](#).

## **B. FISCO Quality Control Selection**

Each region's DOS will perform QCRs on any examinations meeting the following criteria:

- All FISCOs meeting the above criteria, including both joint examinations or independent insurance reviews;
- FISCO QCRs will be based upon the lower of the SSA's or NCUA's CAMEL ratings; and
- FISCO QCRs will encompass review of all insurance risks including both the NCUA and SSA's WCC 11s and the corresponding NCUA WCC 26.

## **C. Offsite Supervision Quality Control**

Quarterly, each region's Division of Supervision will select a 5% sample of risk reviews (RATE Reviews) completed by field staff and conduct a quality control review. These reviews, documented for regional management, will evaluate whether field staff's analysis of risk trends and recommended supervision plans are appropriate.

## **D. Additional Discretionary Reviews**

In addition to the above examination review criteria, each region will further evaluate the effectiveness of its examination and supervision program by selecting additional examination and supervision contacts for Quality Control Reviews through the use of judgmental sampling. The sampling criteria may include, but is not limited to, the following:

- FISCO follow-up exams or supervision contacts (evaluate effectiveness of problem resolution);
- Any credit unions subject to informal administrative action as discussed in [Supervisory Letter 10-04, Administrative Remedies](#);
- Credit unions upgraded from a CAMEL 4 or 5;

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<sup>37</sup> Formal actions include: Published Letter of Understanding and Agreement; Immediate and/or Permanent Cease and Desist Order; Civil Money Penalties; Involuntary Liquidation; Conservatorship; ; Termination of Insurance; Revocation of Charter; Prompt Corrective Action related items, not to include earnings transfer waivers. Please also see [NCUA Instruction No. 4820, Enforcement Manual](#) or Chapter 29 of the [Examiner's Guide](#) for additional information on Formal Administrative Actions.

- Credit unions upgraded from a CAMEL 3;
- Credit unions downgraded to a CAMEL 3; or
- Credit unions exhibiting elevated or emerging risks.

## **5. Examination and Supervision Program Review Process**

### **A. QCR Preparation and Distribution**

DOS uses AIRES, including the Scope Module, Risk Reports, FICU file, and any other relevant data to evaluate the report - refer to [Chapter 22](#) of the [Examiner's Guide](#). QCRs must be completed within 45 days of upload of the examination.

- A supervision analyst evaluates the report and prepares a QCR Form, including any recommended subsequent actions.
- If the report contains no material issues, the Director of Supervision (DDOS)<sup>38</sup> reviews and signs off on the QCR Form.
- If the report contains material issues and/or is substandard, DOS will take the following actions:
  - The analyst will discuss the material issues or substandard elements with the DDOS.
  - If the DDOS concurs with the issues or elements, they will determine the type of action most appropriate (e.g., memo, email, etc.) and proceed accordingly.
  - The analyst will notate the type of deficiency within the QCR Form, the type of action taken, and the date a response is due from the supervisor (if applicable).
  - Flag the QCR Form for follow-up as appropriate.
- DOS distributes the completed QCR Forms to the EIC and supervisor simultaneously via email and on a flow basis to regional management.
- When possible, DOS will provide informal advanced notice of any memo to the supervisor prior to sending the QCR to the examiner and supervisor.
- Supervisors will review all QCR Forms and associated memos (if applicable) and discuss with the examiner (if necessary).

### **B. QCR Appeal Process**

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<sup>38</sup> DDOS responsibilities may be delegated to the Deputy Director DOS at each region's discretion.

- If an examiner substantially disagrees with significant issues noted in a QCR Form, the examiner should discuss the issues with their supervisor.
- If the supervisor agrees with the examiner's position and the concerns are determined to be material, the supervisor first discusses the issues with the DDOS.
- If the supervisor does not substantially agree with DOS' comments, the supervisor will discuss the issues with the DDOS.
- If a solution is not reached between the supervisor and DDOS, the examiner will draft a memo to their supervisor outlining the reasons for the disagreement, including any supporting documentation. The supervisor will forward the memo, with their comments, to DDOS with a copy to the ARD-P and ARD-O.
- DOS reviews the supervisor's memo, documentation, and the examination report to reassess the QCR and revises the QCR Form if appropriate. Absent revision to the QCR Form, DOS prepares a response to the supervisor for the RD's signature.

## **6. Supervisor Responsibilities Defined**

Supervisors are responsible for reviewing and evaluating reports and for providing consistent and timely feedback regarding the quality of the work and suggestions for improving performance with an emphasis on identification of significant problems and timely and effective resolution of significant problems. The supervisor will complete a Scanned Review, a Documented Secondary Review of CAMEL Ratings, or a Full Review of all examinations, insurance reviews, supervision contact reports, and state report reviews completed by examiners in their supervisory group per the criteria listed below.

### **A. Scanned Reviews**

Scanned Reviews require the supervisor to conduct, at a minimum, a cursory review of key ratios, the Examination Overview, Document of Resolution, and Confidential Section. The judgment of the Supervisor will determine the depth of further review necessary (i.e., discussion with the examiner, accessing and reviewing report work papers, etc.). Scanned Reviews will be completed for all credit unions exceeding \$50 million in assets not subject to Full Reviews or Documented Secondary Review of CAMEL Ratings.

### **B. Documented Secondary Review of CAMEL Ratings**

A Documented Secondary Review of CAMEL is part of the quality assurance process. [Chapter 1, Section 8J](#) outlines the responsibilities of the examiner and supervisor surrounding Documented Secondary Reviews of CAMEL (DSRCs) and when these must be completed.

### **C. Full Reviews**



A Full Review is the most comprehensive review a supervisor will perform and reflects an in-depth review of the examiner's identification of risk and problem areas, as well as the appropriateness and effectiveness of plans for corrective action.

When completing a Full Review on a state report review use the SSR form type. A Full Review of a state report will include a review of the NCUA WCC 26, the state regulator WCC 11, and the NCUA WCC 11, as applicable. Full Reviews of state examinations should not take place until the state regulator examination has been uploaded and the WCC 26 review completed by the NCUA examiner.

Supervisors will use the following minimum evaluation requirements to select reports for a Full Review:

- All reports from new examiners still in probationary status;<sup>39</sup>
- A minimum of five (or all if less) regular FCU (WCC 10), FISCO insurance review (WCC 11), or follow-up FCU/FISCO (WCC 22/WCC 23) reports for each examiner with less than two years' experience;
  - A minimum of three reports (excluding state report reviews) per examiner must receive a comprehensive review. This will be documented on the Supervisor Evaluation Form.

Additional reviews will be necessary when a developmental need is identified by the supervisor. Supervisors should strive to complete reviews evenly over the calendar year.

#### **D. Supervisor Evaluation Form Completion and Distribution**

Scanned Reviews and Full Reviews will be completed within 45 days of upload of the examination.

- Distribution of Reviews:
  - Scanned Reviews will be automatically distributed to the examiner via an upload process in MARS.
  - Documented Secondary Review of CAMEL Ratings will be sent to the examiner via email.
  - Full Reviews will be sent to the examiner, DOS, and the ARD-P via email.
- Review Comments: Examiners and supervisors review and discuss written report reviews with each other as needed to resolve the issues or concerns addressed in the written reviews.

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<sup>39</sup> Examiners on "probationary status" are those employed by NCUA less than one year. These reviews will be conducted independently of the On the Job Trainer.



## Chapter 5 – Audits, Recordkeeping, and Fraud

Supervisory committee audits are required under Part 715 of the [NCUA Rules and Regulations](#). They are a critical tool used to evaluate the integrity and fairness of the financial statements. They provide assurance of the reliability of the financial statements used by credit union management, members, creditors, insurers, and NCUA. These financial reports are the basis for risk identification and offsite monitoring of the credit union system. Chapter 5 of the [Examiner's Guide](#) provides detailed discussion of Supervisory Committee Audits, instructions for reviewing the audit and engagement letter, and information on the review of member account verifications.

Recordkeeping is the process of recording and maintaining sufficient information to trace all transactions to a point of origin. An effective recordkeeping program is bolstered by strong internal controls and facilitates the audit process. Audits rely on financial records to validate data integrity, identify inaccuracies, and decrease the risk of fraud.

### 1. Examiner Responsibilities

The most recent NCUA Instruction No. 5000.20, Risk-Focused Examination Scope outlines expectations for reviewing audit workpapers.

### 2. Audit Firms Located Outside the Geographic Area

Per §715.10 of the [NCUA Rules and Regulations](#), the SC is responsible for preparing and maintaining, or making available, a complete set of original working papers supporting each supervisory committee audit. The SC will, upon request, provide NCUA staff unconditional access to such working papers, either at the offices of the credit union or at a mutually agreeable location, for purposes of inspecting such working papers.

In the event the audit firm is located outside the geographic area of the credit union and the examiner determines it would be advantageous for another region and/or group to review the audit work papers at the firm's office, examiners will request assistance from another group or region through the supervisor. Examiners from the requested supervisor group will be responsible for reviewing the independent state-licensed accountant's audit work papers and providing a report summarizing the review to the EIC.

### 3. Unacceptable Audits and Member Account Verifications

Examiners will consider an audit or verification unacceptable and develop plans of action when they determine:

- Material parts of the audit or verification were not done;
- Material parts of the audit or verification are not supported by work papers;
- Material areas of credit union operations were not audited; and
- The auditor lacks independence from the credit union.

Examiners - Examiners who discover material supervisory committee audit/Member Account Verifications deficiencies conducted by the SC or an external auditor that is not a licensed independent auditor or certified public accountant will:

- Contact their supervisor;
- Determine if the audit can be cured timely (if not, discuss alternatives with their supervisor);
- Rate compliance risk as “high” or document the rationale for a different risk rating;
- Denote this a major area of concern in the Examination Overview;
- Prepare a DOR which provides a reasonable time period for the SC to correct the deficiencies;
- Require the SC to provide a monthly status report of their progress to the examiner;
- Document the audit or Member Account Verifications deficiencies as a problem code using the DOR module (within “Compliance Risk” Risk Area of DOR module); and
- Establish a follow-up supervision contact within 60 days of the last contact’s completion date. The supervisor must approve any extension beyond 60 days with notification to the ARDP. The examiner must document any extensions in the Confidential Section during the next contact.

If the audit or Member Account Verifications remains unacceptable, examiners will proceed in accordance with §715.11 of the [NCUA Rules and Regulations](#) to obtain an acceptable audit or Member Account Verifications following the guidelines in Chapter 5 of the [Examiner’s Guide](#).

Recurring deficiencies for audit and Member Account Verifications are grounds to proceed to administrative actions. Examiners can consult with their supervisor to develop a more stringent supervision plan if needed. Additionally, the CAMEL Management component and overall rating should reflect management’s recurring non-compliance with this critical internal control area.

#### **4. Audits by Licensed Independent Accountants**

Examiners cannot take independent action in the event a financial statement audit by a state licensed independent accountant is unacceptable.<sup>40</sup> [NCUA Instruction No.4016.01, Obtaining Concurrence and Advancing an Assertion That an Opinion Audit or Agreed-Upon-Procedures are Unacceptable in Meeting NCUA Audit](#)

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<sup>40</sup> Examiners can take exception with the Supervisory Committee if the state licensed independent accountant performed agreed upon procedures rather than a financial statement audit, in the circumstance that the scope of work for which the Supervisory Committee contracted does not meet the requirements of the [NCUA Rules and Regulations](#) Part 715 or the Supervisory Committee Guide minimum procedures.

[Regulations](#) sets out procedures required to rate a state licensed independent accountant audit unacceptable and requires RD approval and E&I concurrence. The supervisor will evaluate the seriousness of the deficiency and if it is sufficient to warrant a rejection of the audit, the supervisor will contact the Regional Office and proceed in accordance with [NCUA Instruction No.4016.01, Obtaining Concurrence and Advancing an Assertion That an Opinion Audit or Agreed-Upon-Procedures are Unacceptable in Meeting NCUA Audit Regulations.](#)

If the licensed independent accountant denies access to the work papers, examiners will contact the SC chairman to report the situation and ask for assistance in resolving the problem. If unsuccessful, examiners will contact the supervisor for guidance. Examiners should never sign any document or release to gain access to the work papers unless OGC has reviewed the release and advises signature. E&I can assist examiners and supervisors in obtaining OGC review in a timely fashion.

## **5. Significant Recordkeeping Concerns**

Significant recordkeeping concerns include any other issue that presents an unacceptable degree of risk including:

- Incomplete bank reconcilements or over 60 days in arrears; and
- Records materially in arrears or significant unreconciled differences (including AIRES share and loan download not tying back to member trial balance).

When an examination or supervision contact reveals significant recordkeeping concerns, examiners will:

- Notify their supervisor;
- Review material general ledger accounts including, but not limited to, loans, member deposits, cash, investments, subsidiary ledgers, and the call report;
- Rate transaction risk as “high” or document the rationale for a different risk rating;
- Denote this as a major concern in the Examination Overview;
- Prepare a detailed DOR, using the DOR module, and obtain agreements from the officials to achieve the stated goals;
- Require the SC/designated person to provide monthly status reports, electronically or telephonically. These reports should note the progress made to remedy the recordkeeping problems. Examiners will maintain a Supervision Chronology Report ([Appendix 1-A](#)) of these contacts to be included in subsequent AIRES uploads (and for submission to their supervisor if requested);
- Complete a follow-up supervision contact within 60 days of the last contact’s completion date. Conduct a supervision contact every 60 days (from the time the problems were identified) until all problems are resolved. The supervisor must approve in writing any

extension beyond 60 days. The ARDP must approve in writing any extensions beyond 90 days with notification to DOS. The examiner must document any extensions in the Confidential Section; and

- Establish a resolution date of 180 days or less.

#### **A. Incomplete Bank Reconcilements or Over 60 Days in Arrears**

Examiners: If the bank or corporate reconcilements are incomplete (unreconciled) or in arrears greater than 60 calendar days, in addition to the steps outlined in the previous section, examiners will:

- Determine the cause and evaluate the scope of the potential problem;
- Reach agreements with management to bring the reconcilements current, usually within 30 calendar days, and involve the SC in this process; and
- Consider requiring an outside independent accountant to bring reconcilements current, especially if the SC is not functional or does not possess the skills to adequately review the bank reconciliation process.

#### **B. Records Materially In Arrears or Significant Unreconciled Differences**

Examiners must use judgment in assessing material recordkeeping problems. In some cases, the size of the unreconciled differences may not be related to the scope of the problem, particularly if the control environment lacks integrity. If records are materially in arrears or there are significant unreconciled differences, in addition to the steps outlined above in [Section 2](#), examiners will discuss with their supervisor to determine whether to:

- Extend the examination/supervision contact up to 30 calendar days if the records cannot be brought current during the examination. If this option is taken, examiners will note in the Confidential Section the reasons why the examination was extended and the concurrence received; or
- Complete the examination using the most current meaningful data available. If this option is taken, examiners will note in the Confidential Section if the officials have failed to meet agreements to correct recordkeeping concerns.

If the recordkeeping problems are serious and persistent as defined §715.12(c) of [NCUA Rules and Regulations](#), the EIC may compel a federal credit union to obtain a financial statement audit performed in accordance with generally accepted auditing standards (GAAS) by an independent person who is licensed by the State or jurisdiction in which the credit union is principally located. If the supervisor and EIC determine that an opinion financial statement audit is necessary, the supervisor will notify the ARDP.

If offsite monitoring and/or supervision contacts reveal major areas of concern with ongoing recordkeeping, audits, or verification of members' accounts which have not been properly

resolved within 180 days, the EIC will consult their supervisor and determine what administrative action is to be taken.

Examiners will document offsite/onsite contacts by using the appropriate methods, e.g., AIRES, Confidential Section, etc., and indicate the progress and actions taken.

## **6. Addressing Bond Claims**

If the credit union has a bondable loss and has not provided the appropriate notice to the surety company or refuses to do so, examiners will notify their supervisor. The supervisor will discuss the issue with the ARDP or ARDO as appropriate and a decision will be made regarding NCUA notifying the surety company of a potential bond claim. During contacts, examiners should:

- Determine whether a bond claim is outstanding, established as a disclosure item (footnote to the financial statements) or a receivable, remains on the books as a loan, other account, or a disclosure, or has been written off;
- Determine whether the surety company has committed to paying the claim; and, if so, the amount of the commitment; and
- Direct the credit union to write off any claims, or portions of claims, considered losses even if this will cause a deficit or insolvency. In evaluating the collectability of claims, examiners will consider the following:
  - Surety companies do not pay for lost interest or lost opportunity income.
  - The credit union must have incurred a loss for a valid claim to exist.
  - An examiner's adjusting journal entries in AIRES must properly reflect the bond claim as an accounts receivable, or loss, after the surety bond company has confirmed the outcome of the claim in writing.

Examiners should contact their supervisor when they identify material bond claims or when adjusting entries will cause a deficit in undivided earnings or insolvency. At a minimum, examiners should document shortages in the scope and other sections as appropriate.

## **7. Determine Bondability Status**

In some instances, it may be necessary to determine the bondability status of a credit union employee or official. This procedure is usually reserved for fraud, insider dealings, or when we have completed a prohibition and want to check if the individual's bond has been revoked (open claims typically will not yet have a determination, especially if no criminal charges are involved). Examiners will work with the appropriate credit union staff to determine the bondability status of a credit union employee or official. Examiners may also evaluate the credit union's process for verifying bondability of all employees. Credit union's should be evaluating each employee during the hiring process to ensure they are bondable and maintain a record of this verification to provide to NCUA examiners (and other outside auditors) when requested. If a credit union has not completed this process and/or cannot provide documentation, the examiner should address the issue in the examination report, as appropriate.

## **8. Dishonesty, Fraud, and Insider Dealings**

If an examiner discovers fraud or a shortage, they will document the fraud or shortage as completely as possible and notify their supervisor. With supervisor concurrence, the examiner will notify the board of directors and the supervisory committee and request completion of a Suspicious Activity Report (SAR). The examiner will encourage the officials to, at a minimum, (1) suspend the personnel involved with pay, (2) control the access of personnel involved to the credit union, (3) fill the operational void caused by the suspension, (4) contract to perform a fraud audit, (4) notify surety, and (5) file a bond claim after all facts are known. Ultimately, NCUA must decide the likelihood of pursuing prohibition actions against dishonest individuals. Examiners must seek input for this decision from their supervisor, Regional Office, and, if necessary, OGC. Should conviction of a crime result for an individual, NCUA usually can obtain a prohibition more easily.

## **9. Fraud Report Investigations**

The Office of General Counsel monitors the toll free NCUA Fraud Hotline – (800) 827-9650. Upon receiving a report of suspected fraud or other irregularities, OGC will forward a Fraud Hotline Report to the appropriate RD for review. Reports of suspected fraud or other irregularities might also be received in the Regional Office from other sources.

DOS will review the complaint after the Regional Office receives a Fraud Hotline complaint. The Regional Office will then send a copy of the Fraud Hotline complaint and any supporting documents to the appropriate supervisor, with a copy to the examiner, accompanied by a work assignment.

Examiners will review the fraud report and supporting documentation and discuss with their supervisor. The examiner will make an onsite visit to the credit union, if deemed appropriate by the supervisor. The names of parties filing a complaint should be kept in confidence. During a review, examiners are encouraged to review source documentation, such as relevant statements and supervisory override reports. Examiners should also discuss the allegations with management or other pertinent individuals, as necessary.

Examiners will prepare the following, based on the analysis performed:

- A Regional Summary or memo documenting the review of the allegations contained in the fraud report. At a minimum, the summary/memo should address:
  - Merits of each allegation contained in the fraud report;
  - Background information on the allegations contained in the fraud report;
  - Scope of the review (actions taken to determine validity of the allegations);
  - Results of the review (findings in connection with the allegations);
  - Conclusion indicating whether allegations are substantiated or unsubstantiated;
  - Identify any action(s) taken where the allegations were substantiated; and
  - Recommendation for further action, if necessary.



- A draft memo to OGC from the RD responding to the Fraud Hotline complaint. The memorandum must address whether the complaint was found to be valid and what, if any, additional supervision will be performed on a regional level to ensure inappropriate practices are discontinued. The memorandum should also indicate whether any assistance from OGC is required and, if so, indicate the nature of the assistance needed (if the fraud report was initiated in the Regional Office, this memo is not necessary).

When it is determined allegations of fraud or improper conduct are substantiated, supervisors are responsible for ensuring appropriate corrective action is initiated at the field level and documented in the report.

If it appears subpoenas for documents or testimony will be needed, the RD, through DOS, should be notified immediately so assistance may be requested from OGC.

# **Chapter 6 – Regulatory Waivers, Change of Officials, and other Regulatory Actions**

NCUA applies federal statutes, regulations, and directives to achieve strategic goals and ensure uniformity in application of supervision standards. Regulatory waivers afford flexibility in instances where specific criteria are satisfied. NCUA processes waiver requests in accordance with regulatory requirements and internal directives.

This chapter establishes national policy NCUA staff follows when completing work assignments and examination and supervision of regulatory related waivers and other regulatory related actions.<sup>41</sup>

## **1. General Procedures and Requirements for Waivers**

### **A. General Responsibilities**

#### **i. Examiner Responsibilities**

Examiners are responsible for evaluating credit unions' regulatory compliance and identifying potential safety and soundness issues when processing work assignments, completing supervision work, and performing examinations. Examiners will use the national standards established in this chapter to ensure quality and consistent work. The standards in this chapter also ensure consistent administrative record documentation. Examiners will create an administrative record for recommendations made and actions taken in meeting standards set forth in this chapter.

#### **ii. Supervisor Responsibilities**

Supervisors are responsible for reviewing and ensuring staff performs quality work which follows the standards of this chapter. Supervisors are responsible for reviewing and approving work for completeness and accuracy prior to submission to the Regional Office. Supervisor approval becomes part of the credit union's administrative record. Supervisors are responsible for monitoring risk institutionally and on a group basis.

#### **iii. Regional Office Responsibilities**

ROs are responsible for having systems and controls in place to ensure standards of this chapter are met. When reviewing work related to the standards of this chapter, regional processes must ensure quality work and accurate administrative records

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<sup>41</sup> This chapter is not inclusive of all types of waivers. This chapter reflects the rules and regulations as of May 17, 2012. E&I will update this Chapter whenever the NCUA Board adopts a new regulation or revises an existing regulation. Examiners should contact their supervisor if assistance is needed that is outside the scope of this chapter.

are maintained for regulatory related actions. DOS is responsible for monitoring risk institutionally and on a regional basis.

**iv. E&I Responsibilities**

E&I is responsible for monitoring periodic risk reports to review trends and issues related to regulatory waivers and other regulatory related actions. E&I also has oversight of this Manual and ensures standards are clear and followed by staff through its quality assurance program. E&I will evaluate compliance with this chapter during routine monitoring of cases, quality assurance reviews, and review of information submitted on required reports. During periodic updating of this Manual, E&I will solicit comments from other offices to ensure standards set forth in this chapter remain current and effective.

**B. Waiver Processing Procedures**

In general, the following procedures will be used to process FCU waiver requests. Please refer to each specific waiver type outlined in this chapter for unique processing steps.

**i. Division of Supervision Initial Review Responsibilities**

After the RO receives the credit union's application, DOS will perform a cursory review to determine whether the credit union request is complete.

If considered complete:

- Prepare an acknowledgement letter and send it to the credit union by the region's preferred expedited mail delivery service; and
- Prepare and send a work assignment to the field that includes the credit union's request, application package, supporting documentation, and request a recommendation for approval or denial.

If incomplete:

- Prepare an incomplete/denial letter and send it to the credit union by the region's preferred expedited mail delivery.
- Ensure the letter lists the additional information the credit union must submit if they would like the request to be considered. DOS will copy the examiner and supervisor on the letter.

**ii. Field Review Responsibilities**

Examiners and their supervisor will evaluate the credit union's net worth, CAMEL and risk ratings, and financial strength, and provide a recommendation whether to

grant the request. The scope and depth of the examiner's review will be scaled according to the materiality of the waiver request.

The examiner, with supervisor approval, will determine if an onsite contact is necessary.

After review, examiners will:

- If considered incomplete:
  - Determine if the waiver package is in fact complete. If the package is incomplete, the examiner will draft the appropriate incomplete/denial letter (refer to the Denial – Incomplete Request Letters contained in the Appendix of this chapter) or informally contact the credit union to obtain the missing information.
- If considered complete:
  - Complete a Regional Summary to include an approval or denial recommendation; and
  - Draft a letter for approval, partial approval, deferral, or denial and email the letter along with the Regional Summary and any other supporting documentation to their supervisor.

The supervisor will review the information, provide supporting reasons for concurrence or non-concurrence, and forward the package to the region's DOS mailbox.

If recommending denial, examiners will not discourage any credit union from applying for reconsideration or filing an appeal, if applicable.

### **iii. Division of Supervision Processing Responsibilities**

Upon receipt of the field's recommendation, DOS will review and analyze the recommendation for appropriate support and justification. Upon concurrence, DOS will submit the recommendation and proposed response letter to the RD for approval and signature. DOS will mail the signed letter to the credit union using the region's preferred expedited mail delivery service and copy both the examiner and supervisor.

If DOS and/or the RD do not agree with the field's recommendation, the supervisor will be notified of the reasons. The field will be given the opportunity to further support or revise their recommendation in the Regional Summary and draft revised correspondence, if necessary. DOS finalizes the response letter for the RD's signature. Once signed, DOS will mail it to the credit union using the region's

preferred expedited mail delivery service and copy both the examiner and supervisor.

### **C. FISCO Waiver Processing**

Unless otherwise specified by regulation, a FISCO must submit the waiver request to its SSA.<sup>42</sup> If the SSA approves the request, the SSA will forward the request to the RD. A waiver is not effective until approved by the RD. If the SSA denies a request, the RD will also deny it.

### **D. Waiver Timeframes**

The Region will respond within the timeframe specified in the applicable regulation, or where not specified within 45 days from the date a completed request is received in the Regional Office.

[Appendix 6-HH](#) outlines the regulatory and statutory timeframes for waivers.

### **E. Waiver Periodic Review and Revocation Process**

Examiners will review outstanding regulatory waivers at every examination. Regions will review outstanding regulatory waivers every three years.<sup>43</sup> This requirement applies to any waiver that involves authority for ongoing activity (as opposed to a waiver for a single action).

The RD may revoke a credit union's waiver, in whole or in part, for substantive, documented safety and soundness reasons. When revoking a waiver, the RD must give written notice to the credit union stating the reasons for the revocation. The notice should also discuss where applicable the treatment and/or grandfathering of activities conducted while the waiver was in force. The revocation is effective upon the credit union's receipt of the letter from the RD.

Examiners should first discuss revocation with their supervisor. Examiners will submit a revocation package to their supervisor consisting of a memo, a draft letter, and any other documentation necessary to justify the revocation. The supervisor will send the revocation package to the region's DOS mailbox. The memo will include a discussion of:

- Background of the credit union and the problems;
- Substantive safety and soundness justification;
- Net worth and solvency considerations; and

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<sup>42</sup> Section 741.204 of the [NCUA Rules and Regulations](#) applies to state-chartered federally insured credit unions and incorporates the Section 701.32 requirements.

<sup>43</sup> Three year timeframe review begins July 1, 2012.

- Outstanding administrative and/or documented corrective action.

DOS will review the recommendation. If in agreement, DOS will prepare a concurrence summary to the RD along with the field memo and draft letter. Upon signature, the revocation letter will be sent via expedited mail with a copy to the examiner and supervisor, and SSA if applicable.

A credit union has 60 days from the date of revocation to appeal the action to the NCUA's Supervisory Review Committee (SRC).<sup>44</sup> If the SRC upholds the revocation, the credit union has 60 days from the date of the SRC's decision to appeal the action to the NCUA Board.

## **F. Waiver Monitoring and Controls**

DOS and E&I are responsible for monitoring the consistency, soundness and appropriateness of regulatory waivers. E&I is responsible for evaluating consistency with policies and evaluating the overall trends in risk.

### **i. Division of Supervision Reporting Responsibilities**

- DOS will maintain supporting documentation for each approval/denial in the corresponding charter files.
- Regions will maintain reports that will track all regulatory waivers.<sup>45</sup>
- Regions will submit a list of the waivers granted, revoked, and outstanding to E&I on a semiannual basis.<sup>46</sup> Listings will include at a minimum:
  - Charter, Name, Assets, CAMEL rating (both composite and component ratings), Type of Action, Action Date, Resolution Date (where applicable), Status, Expiration Date (where applicable) and comments.
- Regions will provide a posting of all outstanding regulatory waivers on SharePoint and implement a process to review regulatory waivers every three years.

### **ii. E&I Reporting Responsibilities**

- E&I will review regional activity on a semiannual basis as a means of tracking regional and national trends for consistency and policy development.

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<sup>44</sup> Refer to IRPS 11-1 for details of the SRC.

<sup>45</sup> Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions should ensure their current systems capture the required information.

<sup>46</sup> E&I is in process of developing a platform to capture this information.

- E&I will issue an annual national summary of the regional reports analyzing national trends.
- E&I will periodically request a sampling of actions taken under this chapter for quality control purposes as part of our ongoing quality assurance process.

## **2. Fixed Asset Waivers**

No federal credit union with \$1,000,000 or more in assets shall invest in fixed assets if the aggregate of all such investments exceeds five percent of shares and retained earnings without the prior approval of the RD. Fixed assets do not include foreclosed properties (OREOs) and repossessed assets. Guidelines for ownership of fixed assets are addressed in §701.36 of [NCUA Rules and Regulations](#).

The following template letters are available related to fixed asset waivers:

- [Appendix 6-A](#) – Fixed Asset Waiver Letter – Denial – Incomplete Request
- [Appendix 6-B](#) – Fixed Asset Waiver Letter – Acknowledgement – Request Complete
- [Appendix 6-C](#) – Regional Summary – Request for Fixed Asset Waiver
- [Appendix 6-D](#) – Fixed Asset Waiver Letter – Approval
- Approval recommendations will include a stated dollar amount and only those expenditures identified in the letter including contingency;
- [Appendix 6-E](#) – Fixed Asset Waiver Letter – Denial
- Denied recommendations will include an explanation of why the request was not approved and what action must be taken before the request will be reconsidered.
- [Appendix 6-F](#) – Fixed Asset Waiver Letter – Retroactive Request – Response

### **A. Monitoring of Fixed Asset Approval**

Once a waiver is granted, the regulation does not require the level of fixed assets to be below five percent by a specific deadline; however, the credit union is expected to meet the projections submitted with the package. During each contact, examiners will document compliance with the waiver in the Scope. This reporting should continue until the credit union is within the five percent limitation.

### **B. Violation of the Fixed Asset Regulation**

If a credit union violates the regulation by proceeding without prior approval or proceeding despite a denial, NCUA will require the credit union to take appropriate action. This may include sale of the asset or some other action to bring the fixed asset ratio below five percent within a specific timeframe.

The RD will not give retroactive approval to a request after the credit union has already violated the regulation.

## **3. Excess Property**

Excess space is only acceptable when the credit union bases its purchase on future needs as outlined in §701.36 of [NCUA Rules and Regulations](#).



## **A. Acquired Premises for Future Expansion**

A credit union must partially occupy premises<sup>47</sup> within a reasonable period of time, not to exceed 3 years. Unimproved real property must be partially occupied within a reasonable period of time, not to exceed 6 years. If the credit union cannot meet the applicable partial occupancy requirement, they must request a waiver within 30 months of acquisition.

## **B. Abandoned Property**

Once property is determined to be abandoned, credit unions have four years to publicly advertise<sup>48</sup> abandoned property for sale. Disposal must occur through public or private sale within five years of abandonment unless an extension is approved by NCUA.

Examiners will evaluate the request and consider efforts made by the credit union to sell the property to date including comparing book and appraised values with asking prices.

## **4. Nonmember Deposits Limitation Waiver**

Credit union public unit and nonmember accounts cannot exceed the greater of 20 percent of total shares or \$3.0 million unless approved by the Regional Director.

Nonmember share deposits in low-income designated credit unions accepted to meet the matching requirement for loans granted through the Community Development Revolving Loan Program are not subject to the 20 percent limitation on nonmember deposits. Additionally, credit unions must maintain the increase in the total amount of matching share deposits for the duration of the loan.

The following template letters are available related to nonmember deposit waivers:

- [Appendix 6-G](#) – Nonmember Deposit Letter – More Information Needed
- [Appendix 6-H](#) – Nonmember Deposit Letter – Acknowledgement Receipt – Complete Request
- [Appendix 6-I](#) – Nonmember Deposit Letter – Violation Response
- [Appendix 6-J](#) – Regional Summary Nonmember Deposit Exemption
- [Appendix 6-K](#) – Nonmember Deposit Letter – Approval
- [Appendix 6-L](#) – Nonmember Deposit Letter – Denial

If a violation is identified, DOS sends a Nonmember Deposit Letter – Violation Response, by using their preferred expedited mail delivery service available, to the credit union advising the board of directors they are in violation of the regulatory limit. The letter will require the board of directors to submit an acceptable plan within 30 days to bring the credit union into compliance (i.e., return nonmember deposits or other reasonable alternative action). If the credit union intends

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<sup>47</sup> Premises means any office, branch office, sub office, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

<sup>48</sup> The advertisement should be publicly conspicuous. A For Sale sign in the window or front yard alone would not be acceptable advertising. The credit union should use the multiple listing service (MLS) and engage a seller's agent.

to continue additional nonmember deposit activity, it must submit a waiver package that provides sufficient support in accordance with 701.32(b)(3).

## **5. Earnings Transfer Waiver**

[NCUA Rules and Regulations](#) §702.201 and §702.303 address earnings transfer requirements for credit unions subject to prompt corrective actions (PCA).

### **A. Earnings Retention**

Beginning the effective date of classification as “adequately capitalized” or lower (less than seven percent net worth), credit unions must increase the dollar amount of their net worth quarterly by at least 0.1 percent of total assets. The 0.1 percent may be calculated from current quarter earnings or from average earnings over the current and three preceding quarters. A transfer of this amount or greater must be from Undivided Earnings to Regular Reserves on a quarterly basis until the credit union becomes “well capitalized.” New credit unions must also increase their net worth quarterly but by the amount reflected in their approved initial or Revised Business Plan (RBP). In the absence of such a plan a new credit union must increase their net worth quarterly in accordance with §702.201.

There is always a quarter lag between when a credit union becomes less than well capitalized and when it needs to meet the earnings retention requirements and make a required reserve transfer. For example: XYZ CU, whose net worth category declined to “adequately capitalized” as of March 31, is not required to meet the earnings requirement or make a reserve transfer that quarter because the effective date of its net worth classification is not until April 30. However, starting the quarter-ending June 30, XYZ CU will need to:

- Increase net worth quarterly and make an earnings transfer;
- Request a reduction of the Earnings Transfer requirement if it projects it will not meet the quarterly earnings requirement;
- Request approval from both the quarterly earnings and reserve transfer requirements if it projects it will not meet the quarterly earnings requirement and also has insufficient Undivided Earnings to make the required quarterly reserve transfer; or
- Request approval to pay dividends from the Regular Reserve as a transfer to the Undivided Earnings account when a deficit in Undivided Earnings exists.

### **B. Reduction of the Earnings Transfer Requirement**


The credit union must submit a written request seeking approval to reduce the amount of Earnings Transfer no later than 14 days before the quarter-end if it cannot meet the earnings and transfer requirements. Examiners should be aware of and work with any credit unions that must meet the quarterly requirements.

At a minimum, requests for approval from the credit union must explain how the reduction in the earnings requirement is necessary to avoid a significant redemption of shares and further the purposes of PCA. “Furthering the purposes of PCA” can be documented by briefly explaining: why the credit union could not meet the quarterly earnings requirement and how management plans to resolve the earnings problem and increase net worth to meet PCA’s capitalization requirements in future periods. Requests for approval that do not provide this basic information will not be processed.

Examiners must document and determine a lesser amount a) is necessary to avoid a significant redemption of shares and b) would further the purpose of PCA (as noted in 702.201(b)).

The following template letters are available related to earnings transfer waivers:

- [Appendix 6-M](#) – Earnings Transfer Letter – Incomplete Request
- [Appendix 6-N](#) – Regional Summary – Decrease in Earnings Transfer Requirements
- [Appendix 6-O](#) – Approval Letter – Decrease in Earnings Transfer Requirements. Note: Some of the sections in Appendix 6-O only applies to FICUs with Undivided Earnings deficits.
- [Appendix 6-P](#) – Denial Letter – Decrease in Earnings Transfer Requirements

	<p>The RD may also approve the reduction in earnings retention and the earnings transfer during the processing and approval of a NWRP. If the credit union projects earnings will not meet the earnings retention requirements during any quarter the plan covers, they may request approval for the quarter(s) when they submit their plan to the regional office. When the plan is approved, the reduction in Earnings Transfer is also approved. However, if the credit union originally projects earnings will be sufficient in their plan and then subsequently fails to meet the requirements, the appropriate request for approval must be submitted within the above timeframe.</p>
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In the case of a state chartered credit union, the supervisor will request concurrence via phone or e-mail from the appropriate SSA. The SSA will also be copied on the RD’s letter to officials approving or denying the request.<sup>49</sup> Examiners will note whether the SSA concurs with approval or denial for FISCUs in the Regional Summary.

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<sup>49</sup> Section 702.205(c) no longer includes the earnings retention requirement of Section 702.201 as a discretionary supervisory action. This means the SSAs cannot unilaterally approve the earnings retention waiver requests of FISCUs.

## 6. Member Business Loan (MBL) Waivers Available Under Part 723

Supervisory Letter 13-1, *Evaluating Credit Union Requests for Waivers of Provision in NCUA Rules and Regulations Part 723, Member Business Loans (MBLs)*, provides interpretive guidance for MBL waivers subject to Part 723 of NCUA's Rules and Regulations. Part 723 establishes a framework to manage the overall risk associated with business lending. The risks associated with each business borrower are unique; therefore, the rule allows for waivers of certain regulatory provisions in order to give credit unions the necessary flexibility to meet the needs of the members they serve. This supervisory guidance provides additional clarity for the waiver process and assists examiners in determining the need and qualifications of both the borrower and credit union when waivers are requested. This supervisory letter was also issued under Letter to Credit Unions 13-CU-02, *Member Business Loan Waivers*. Examiners will refer to Supervisory Letter 13-1 and the information provided in this Chapter when reviewing MBL waivers.

R&R Section	Description
§722.3 Appraisal Requirements	Use of an alternate valuation method or type of appraiser not addressed in this section.
§723.3(a) Aggregate Construction and Development Loan Limits	Waiver to exceed aggregate C&D loan limit of 15% of net worth.
§723.3(b) Minimum Borrower Equity Requirements for Construction and Development Loans	Waiver of the 25% equity interest in the project financed.
§723.7(a) LTV Ratio Requirements for MBLs	Waiver to exceed 80% loan-to-value (LTV). If a credit union intends to make a loan with an LTV in excess 80% and does not have private mortgage insurance (PMI) or the other guarantees listed in the regulation, the credit union must apply for a waiver. However, if a credit union has PMI or some other guarantee, per the regulation, they can extend a loan up to 95% LTV without a waiver. If a credit union wants to exceed 95% LTV, it must apply for a waiver.
§723.7(b) Requirement for Personal Liability and Guarantee	<p>Waiver of the personal liability and guarantee requirement for MBLs.</p> <p>Waiver(s) may be granted on a single loan or as a blanket waiver with certain restrictions as outlined below. In small businesses and investor real estate lending, it is standard practice for the principal to shoulder the bulk of the risk through personally guaranteeing the loan as they generally are in a position to personally benefit the most from the success of the business entity.</p>
§723.7(c)(2) Maximum Unsecured MBL to One Member or Group of Associated Members	Waiver to exceed aggregate unsecured MBL limit of the unsecured outstanding member business loans to any one member or group of associated members of the lesser of \$100,000 or 2.5% of net worth.

§723.7(c)(3) Maximum Aggregate Unsecured MBL Loan Limit	Waiver to exceed the aggregate amount of all unsecured outstanding MBLs of 10% of net worth.
§723.8 Maximum Aggregate NMBL to Any One Member or Group of Associated Members	Waiver for a higher amount, the aggregate amount of net member business loan balances to any one member or group of associated members must not exceed the greater of 15% of the credit union's net worth or \$100,000.

The following template letters are available related to MBL waivers:

- [Appendix 6-Q](#) – Member Business Loan Letter – 723.10 – More Information Needed – Denial
- [Appendix 6-R](#) – Member Business Loan Letter – Acknowledgement Receipt of Waiver Request
- [Appendix 6-S](#) – Regional Summary – Member Business Loan Waiver
- [Appendix 6-T](#) – MBL Waiver Checklist – Part 723.10
- [Appendix 6-U](#) – Member Business Loan Letter – 723.10 – Approval
- [Appendix 6-V](#) – Member Business Loan Letter – 723.10 – Denial

#### **A. MBL Waiver Request Packages**


As described in §723.11, MBL waiver requests must contain:

- A copy of the credit union's business lending policy;
- The higher limit sought (if applicable);
- An explanation of the need to raise the limit (if applicable);
- Documentation supporting the credit union's ability to manage this activity; and
- An analysis of the credit union's prior experience making member business loans, including at a minimum:
  - The history of loan losses and loan delinquency.
  - Volume and cyclical or seasonal patterns.
  - Diversification of risk.
  - Concentrations of credit to one borrower or group of associated borrowers in excess of 15 percent of net worth.
  - Underwriting standards and practices.
  - Types of loans grouped by purpose and collateral.
  - The qualifications of personnel responsible for underwriting and administering member business loans.

## B. Field Responsibilities

Examiners and their supervisors are responsible for evaluating the risk posed by the MBL waiver request. During the evaluation, the examiner should review all pertinent documents (see [Appendix 6-S](#) and [Appendix 6-T](#) for list of items to review) and information to determine if an onsite contact is necessary.

If this is a new program or the examiner does not have historical information to draw upon, strong consideration to go onsite to evaluate the MBL program and the credit union's current business strategy should be given. If the waiver is complex, the examiner and/or supervisor should consider seeking assistance from a Regional Lending Specialist (RLS) who may be able to offer additional support for concurrence or denial.

	When approval is recommended, the examiner's recommendation may establish expiration or other appropriate limits (e.g. dollar amount, percentage of net worth, etc.) to the waiver activity as a control mechanism, when appropriate. By limiting the waiver, NCUA will have the opportunity to evaluate the success of the program.
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## C. Monitoring after Approval

- Examiners will complete the required Member Business Loan Questionnaire within AIREs.
- Examiners will ensure the credit union is compliant with the regulations and the approved waiver.
- During each contact, examiners will document compliance with the waiver in the Scope until the waiver expires or is revoked.

## D. Violations after Waiver Approval

If during a subsequent examination the examiner identifies a violation of the MBL waiver, the examiner will document the violation in the examination report and treat it as a major concern. The examination will include corrective action including ceasing the activity in violation of the waiver. At a minimum, the DOR will direct the credit union to submit a written plan for resolution to the RD. The examiner will evaluate the financial severity or potential risk and make a determination, in consultation with their supervisor, whether to recommend revocation of the waiver.

If the examiner and supervisor determine the violation of the waiver does not present a heightened material risk to the credit union and believes the credit union will take appropriate corrective action through examination agreements, examiners will document the waiver violation in the Confidential Section, and provide support for the decision not to recommend revocation.

## E. MBL Rule Violations

Violations of the MBL rule identified during an examination are a serious matter. Examiners and credit union management must develop an action plan to correct the violation.

If the violation is material in nature or the examiner has evidence the credit union violated Part 723 deliberately, examiners should consult with their supervisor on the need for heightened administrative action. At a minimum, the DOR will direct the credit union to submit a written plan for resolution to the RD. If the credit union fails to comply with the DOR, a RDL should be developed to compel the credit union to provide a written plan of action within a specified timeframe.

When a violation is identified, examiners need to evaluate the overall risk and determine a correct course of action. Options for correcting violations (tailored to the nature of the violation) could include:

- Divestiture of the loan;
- Sale of a participation interest in the loan to reduce the credit union's share of the loan balance;
- Directing the credit union to pursue one or more of the following actions at the first contractual opportunity (e.g. loan default, request for refinance or advance, etc.):
- A partial pay-down of the loan;
- Outside refinancing of the loan;
- Additional collateral be pledged for the loan in question; and/or
- The personal liability and guarantee of the principal(s) be obtained.
- Forbearance as granted by the RD; or
- Other action to resolve the violation.



Forbearance should not be considered if the violation poses significant financial risk to the credit union.

## **7. MBL Nonmember Aggregate Approval<sup>50</sup>**

Section 723.16 allows the RD or SSA to grant approval to a credit union to exceed the aggregate limit on net member business loans. The total of the credit union's net member business loan balances and the nonmember loan balances must not exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets, unless the credit union has first received approval from the NCUA RD.

The following template letters are available related to requests to exceed the MBL nonmember aggregate limit:

- [Appendix 6-W](#) – Regional Summary – Member Business Loan Nonmember Aggregate Approval – 723.16
- [Appendix 6-X](#) – Member Business Loan Nonmember Aggregate Letter – 723.16 – Approval
- [Appendix 6-Y](#) – Member Business Loan Nonmember Aggregate Letter – 723.16 – Denial

### **A. Nonmember Aggregate Approval Request Packages**

As described in §723.16, the approval request must contain the following:

- A current copy of the credit union's member business loan policies;
- Confirmation that the credit union is in compliance with all other aspects of the rule;
- The credit union's proposed limit on the total amount of nonmember loans and participation interests the credit union may acquire if the application is granted; and
- Attestation that the acquisition of nonmember loans and participations is not being used, in conjunction with one or more other credit unions, to have the effect of trading member business loans that would otherwise exceed the aggregate limit.

## **8. MBL Aggregate Limit Exception<sup>51</sup>**

Section 723.18 permits the RD (or SSA where applicable) to grant an exception to the aggregate MBL limit. This exception allows a credit union's member business loan portfolio to exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets. To obtain the exception, a credit union must submit documentation to the RD (FISCUs submit to the SSA) demonstrating that it meets the criteria of one of the exceptions.

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<sup>50</sup> The MBL Nonmember Aggregate Approval is a separate type of approval and not included as a type of MBL waiver allowed under Section 723.10.

<sup>51</sup> The MBL Aggregate Limit Exception is explained under Sections 723.17 and 723.18. An "exception" is separate and distinct from a "waiver" and handled differently.



Exceptions are granted based on the credit union's ability to qualify for one of three circumstances:

- Credit unions with a low income designation or participation in the Community Development Financial Institutions Program;
- Credit unions chartered for the purpose of making member business loans; or
- Credit unions with a history of primarily making member business loans.<sup>52</sup>

Although there is no regulatory requirement, a 30 day response timeframe is recommended from the date of receipt of a complete package in the RO. The regulatory limit for an appeal is 60 days. Exceptions do not expire unless revoked by the RD or SSA.

## **9. Loan Participation Waivers**

[NCUA Rules and Regulations](#) §701.22(b)(5) establishes single originator and single borrower concentration limits for federally insured credit unions. §701.22(c) permits federally insured credit unions to request a waiver of these limitations from the appropriate regional director.

In addition to the information provided in this manual, examiners will reference Supervisory Letter 13-4, *Supervision Guidance on Loan Participation Waivers*, when reviewing waiver requests under §701.22(c). The supervisory letter was also issued under Letter to Credit Unions 13-CU-07, *Loan Participation Waivers*.

The following template letters are available related to Loan Participation waivers:

- [Appendix 6-UU](#) – Loan Participation Waiver – More Information Needed – Denial
- [Appendix 6-VV](#) – Loan Participation Waiver Letter – Acknowledgement Receipt of Waiver Request
- [Appendix 6-WW](#) – Regional Summary – Loan Participation Waiver
- [Appendix 6-XX](#) – Loan Participation Waiver Letter – Approval
- [Appendix 6-YY](#) – Loan Participation Waiver Letter – Denial

### **A. Field Responsibilities**

Examiners and their supervisors are responsible for evaluating the risk posed by the loan participation waiver request. During the evaluation, the examiner should review all pertinent documents and information to determine if an onsite contact is necessary.

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<sup>52</sup> This means either business loans comprise at least 25 percent of the credit union's outstanding loans or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in a call report for 1998 or any prior three years per §723.17(c) of the [NCUA Rules and Regulations](#)).

If this is a new program or the examiner does not have historical information to draw upon, strong consideration to go onsite to evaluate the participation program and the credit union's current business strategy should be given. If the waiver is complex, the examiner and/or supervisor should consider seeking assistance from a Regional Lending Specialist (RLS) who may be able to offer additional support for concurrence or denial.

## **10. NCUA Investment Pilot Program**

[NCUA Rules and Regulations](#) §703.19 permits federal credit unions to request permission to engage in investment activities prohibited by regulation, but permitted by statute. Individual credit unions may apply for such approval. In addition, §703.19(c) authorizes third-party providers to seek approval.

As a prerequisite for participation in a particular third-party program, a credit union must receive permission from NCUA to participate. There are two types of requests:

- To participate in an approved third-party program; or
- To participate directly in the Investment Pilot Program.

The guidelines for processing each type of request follow.

### **A. Guidelines for Evaluating Participation in a New Investment Pilot Program**

DOS will review incoming requests from individual credit unions for completeness. The package submitted by the credit union must contain the minimum information including:

- Board policies approving activities and establishing limits;
- A complete description of the activities, with specific examples, of how the credit union will conduct them and how they will benefit the credit union;
- A demonstration of how the activities will affect the financial performance, risk profile, and asset-liability management strategies of the credit union;
- Examples of reports the credit union will generate to monitor the activities;
- Projection of the associated costs of the activities, including personnel, computer, audit, etc.;
- A description of the internal systems used to measure, monitor, and report the activities, and the qualifications of the staff and/or official(s) responsible for implementing and overseeing the activities; and
- The internal control procedures the credit union plans to implement, including audit requirements.

The following template letter is available related to investment pilot program requests:

- [Appendix 6-Z](#) – Regional Summary – Investment Pilot Program Recommendation

## **B. Evaluating NCUA Investment Pilot Program Participation**

Examiners will address the following items:

- Completeness of the information supporting the request;
- Major areas of risk and their respective ratings (strategic, credit, interest rate, liquidity, compliance, transaction, and reputation) from the most recent examination including the weaknesses or problems noted;
- Most recent examination CAMEL component and composite ratings; and
- Credit union's board, senior management, and the staff's capabilities of managing and monitoring the proposed investment activities.

## **C. Guidelines for Evaluating Requests to Participate in Approved Third-Party Programs**

Depending upon the specific third-party program, an individual credit union may or may not need to obtain individual written approval to participate.

Generally, a credit union wishing to participate in a third-party program will send a request to the RD. DOS will process these requests within seven days of receipt, and respond based on the current knowledge of management and the credit union's financial stability.

DOS will seek concurrence from the examiner and supervisor via e-mail. An onsite contact is not required to make this assessment. Based on the examiner's and the supervisor's recommendation, DOS will draft either an approval or denial letter for the credit union's participation in the program. A copy of the approval or denial letter goes to the appropriate third-party vendor. The letter should not disclose any confidential information. The Region will maintain a log of all approved and denied waivers and provide an updated list to E&I not less than annually.

## **D. E&I Review and Due Diligence**

While general Field and Regional Office responsibilities will be followed, additional review and areas of responsibility exist for approving participation in this program.

DOS will prepare the package of information, including the Regional Summary, for submission to the Office of Examination and Insurance (E&I).

E&I will review and analyze the package and, if necessary, will coordinate the review with the Office of General Counsel. E&I will provide the necessary technical research and analysis of requested pilot programs and will assist in preparing the Board Action Memorandum (BAM), coordinating the briefings of the individual NCUA Board members, and presenting the request at the NCUA Board meeting.

The regions will maintain a listing of all approved investment pilot participants and provide an updated list to E&I on request but not less than annually. E&I will periodically evaluate the statistics on the participating credit unions to determine if undue risk is present systemically.

## **E. Monitoring after Approval**

Guidelines for monitoring investment pilot program participation are unique to each program. Upon approval for participation in the pilot program, each credit union will receive specific guidelines as necessary. E&I will provide detailed information about the program and guidance for examiners for monitoring and reporting the credit union's participation in the program.

Examiners are responsible for:

- Monitoring a credit union's participation in a pilot program, either an individual credit union pilot program or a third-party program;
- Reporting the credit union's results from participating in the pilot program in the scope of the report during each examination, and addressing any necessary corrective action in the Overview, DOR, and Examiner's Findings as appropriate;
- Annotating the investment pilot program participation on RO Problem Code #1 in the AIRES EMC; and
- Examiners may seek outside expertise from a Regional Capital Market Specialist or E&I as needed to perform an appropriate assessment. At each review, examiners must determine if participation in the pilot presents a risk to the credit union. In the event the investment presents significant risk, examiners will consult with their supervisor and contact their regional DOS to discuss what actions to take.

E&I will:

- Have specialized training for the Regional Capital Market Specialists to assist examiners in evaluating the program; and
- E&I will assist examiners in required monitoring and reporting by the participating credit union.

## **11. Changes of Officials for Troubled and Newly Chartered Credit Unions**

Under §701.14 of [NCUA Rules and Regulations](#), federally insured credit unions meeting certain conditions (see “Affected Credit Unions” section below) must obtain the RD's approval for personnel changes (i.e., board of directors, credit or Supervisory Committee, or senior executive officer) at least 30 days prior to the effective date of the change, or within 48 hours of election at an annual membership meeting. For state-chartered federally insured credit unions, NCUA will consult with the appropriate state supervisory authority before making a final decision.

The regulation requires written notice from the credit union and RD approval before an individual can begin service at the credit union. The only exceptions to this requirement are if the credit union requests and the RD waives prior notice, 12 C.F.R. 701.14(c)(2)(i), and, in the case of the election of a new member of the board of directors or credit committee member, 12 C.F.R. §701.14(c)(2)(ii). In the case of a newly elected member of the board of directors or credit committee member, the 30-day prior notice is “automatically waived” and the individual may begin serving but, within 48 hours, a complete notice as required under the regulation must be submitted to the RD. If a RD grants a prior notice waiver or in the case of a new elected director or credit committee member, the RD can still deny the individual and will have 30 days after receipt of the notice and information.

#### **A. Required Information**

The credit union must submit the Notice of Change in Official or Senior Executive Officer [NCUA Form 4063](#) and Individual Application for Approval of Official or Senior Executive Officer [NCUA Form 4063a](#) to obtain the RD's approval for the replacement of certain credit union employees and all officials. The Individual Application for Approval of Official or Senior Executive Officer will be completed and signed by the individual for whom the credit union is seeking approval. FISCUs shall also file a copy of these forms with their state supervisor.

#### **B. Affected Credit Unions**

- Chartered within the past two years;
- For FCUs assigned a CAMEL composite rating of 4 or 5 by NCUA or, for FISCUs, an equivalent of CAMEL 4 or 5 by *either* NCUA (after an onsite contact) or its state supervisor; or
- Credit unions granted assistance under the Federal Credit Union Act §208 that remains outstanding and unextinguished.

#### **C. Timeframes for Approval**

Approval is automatic if a completed application is not denied within 30 days of receipt.

#### **D. DOS Responsibilities**

Initial Notice Procedures: Within ten calendar days after receiving the notice, the RD will inform the credit union whether the notice is complete ([Appendix 6-AA](#)) or that additional,

specified information is needed ([Appendix 6-BB](#)) and must be submitted within 30 calendar days.

- **Receipt of Incomplete Package:** If the initial notice is not complete, the RD will issue a written decision within 30 calendar days of receipt of the original notice plus the amount of time the credit union takes to provide the requested additional information. If the additional information is not submitted within 30 calendar days of the RD's request, the RD may either deny the proposed individual or review and take action on the notice based on the information provided.
- **Receipt of Complete Package:** If the initial notice is complete, the RD will issue a written decision of approval or denial to the individual and the credit union within 30 calendar days of receipt of the notice. Upon receipt of a complete package, DOS will then:
  - Obtain a credit report.
  - Email the application, credit report, and other information to the supervisor (with a courtesy copy to the examiner) requesting a recommendation for approval or denial.
  - Conduct a review of the Suspicious Activity Report database to determine if additional investigation into the applicant's background is warranted. The regions may request OGC perform a Criminal Background search on the applicant if determined necessary. However, regions should keep in mind that the results of the criminal background search may not be available until after the statutory response date passes. This does not allow the statutory response date to be extended.
- If the credit report contains adverse credit information, the RD will issue a letter to the applicant ([Appendix 6-CC](#) is a pre-adverse action disclosure letter; [Appendix 6-DD](#) is a denial letter) encouraging them to provide an explanation. DOS will provide the applicant a copy of the credit report containing the adverse credit information via certified mail to the applicant's private address. The credit union will not be copied on this correspondence.

#### **E. Field Responsibilities**

- The examiner will recommend approval or denial and email the recommendation to their supervisor.
- The supervisor reviews the examiner's recommendation. Following the standard in Section F, Approval Process (below), the supervisor will email a final recommendation to the RO.
- The examiner, supervisor, or DOS may request a criminal background search on the individual if concerns arise during the review.

## **F. Approval Process**

Upon receipt of the examiner's recommendation, DOS will review and analyze the recommendation for appropriate support and justification.

If DOS and/or the RD do not agree with the field recommendation, the supervisor will be contacted to discuss further, as time permits. The field will be given the opportunity to further support or revise their recommendation. DOS finalizes the response letter for the RD and upon signature, mail it to the credit union via expedited mail and copies both the examiner and supervisor.

If the application is approved, DOS will send a letter informing the individual of NCUA approval of employment or official association ([Appendix 6-EE](#)) with the credit union with a copy to the credit union, examiner, and supervisor.

## **G. Grounds for Denial**

The RD will provide specific reasons for denial based on the authority of §701.14(e) of the [NCUA Rules and Regulations](#). All disapprovals require the concurrence of the Office of General Counsel (OGC). The RD should forward any draft disapproval letter to OGC for review and concurrence at least 10 calendar days prior to the expiration date for the RD to respond to the application. Given the short timeframes for acting on these requests regional office staff may contact OGC for assistance at any point during their review process.

The RD will weigh the factors listed below, and will deny the request if, on balance, the issues relating to the individual's competence, experience, character, or integrity are such that it is not in the best interest of the credit union's members or the public for the individual to be employed by or associated with the credit union.

Factors which may support denial include but are not limited to:

- Criminal convictions. Certain criminal convictions may result in an automatic prohibition under Section 205(d) of the Federal Credit Union Act (FCUA) and eliminate any need for any review pursuant to Section 701.14 of NCUA Rules and Regulations. Other criminal convictions may not. Regional office staff should contact OGC whenever an applicant has a criminal conviction.
- Unsatisfactory work performance in the financial sector.
- Lack of work experience in relevant areas of financial management.
- Poor personal financial condition or credit history, particularly as it relates to losses caused to financial institutions.
- Omission of significant information relevant for job consideration.

The mere presence of one or more of these factors in a particular case should not automatically result in disapproval. Rather, when determining whether these or other factors are disqualifying it is important to consider whether, given the specific circumstances surrounding the potentially disqualifying factor, it has a sufficient nexus to

the competence, experience, character or integrity necessary for the particular position so as to be disqualifying.



Part 713 of NCUA Rules and Regulations requires certain minimum bond coverage for credit union employees and officials. Therefore, if an applicant is unable to secure the required minimum coverage they may not serve and there is no need for any review under Section 701.14(e).

If the application is not approved, DOS will send a copy of the appropriate denial letter to the credit union, the examiner, and the supervisor by using their preferred expedited mail delivery service. DOS will also send the individual a separate denial letter. The letters will:

- Summarize the reasons for denial, providing specific reasoning as to why the application is denied. When the applicant provides an explanation for potentially disqualifying information any denial should discuss why on balance these mitigating factors are insufficient; and
- Inform the credit union and the individual of their rights to file a written request for reconsideration to the RD within 15 calendar days of receipt of the notice of denial, or file an appeal directly with the NCUA Board.

Use [Appendix 6-DD](#) to notify the credit union, examiner and supervisory examiner when weak personal financial condition or credit history forms part of the reasoning for the denial. The letter to the individual containing additional disclosures as required by law is found in [Appendix 6-II](#).

Use [Appendix 6-JJ](#) to notify the credit union, examiner and supervisory examiner when weak personal financial condition or credit history does not form part of the reasoning for the denial. The letter to the individual is found in [Appendix 6-KK](#).

## **H. Request for Reconsideration and/or Appeal to the NCUA Board**

As stated above, the denial letter will inform the credit union of their option to request reconsideration by the Regional Director or the option to appeal the decision directly to the NCUA Board. The request for reconsideration must be in writing to the RD and contain the specific reasons why NCUA should reconsider its denial. The request must include any relevant previously omitted material and/or relevant documents not previously available.

Examiners should not discourage a credit union from filing an appeal. There is a 15-day window to file an appeal following notice of denial. The credit union may appeal the decision before or after requesting RD reconsideration. Part 747(subpart J) of [NCUA Rules and Regulations](#) provides guidance for the appeal.

## **I. Waiver of 30 Day Notification Requirement**

In some instances, a credit union may request a waiver of the 30 day advance notification requirement and fill a vacancy until the region has time to process their application

package. In these cases, the regional office can issue a letter with an interim approval ([Appendix 6-FF](#)), until the region has time to process the request.

## **J. Withdrawal of Application**

If a credit union chooses to withdraw their application, the regional office will send an acknowledgment letter ([Appendix 6-GG](#)) to inform the credit union they are aware of the credit union's withdrawal.

## **12. Secondary Capital**

*Section 107(6) of the Federal Credit Union Act authorizes federal credit unions serving predominantly low-income members to receive shares, share drafts and share certificates from non-members. In order to utilize this authority, a federal credit union must receive a low income designation from its Regional Director (RD). These credit unions are considered low income credit unions (LICUs). See Chapter 8 for more information on the low income designation process.*

[NCUA Rules and Regulations](#) §701.34 and §741.204 allows federally insured credit unions (FICUs) designated with low income status to accept secondary capital accounts from non-natural person members and non-natural person nonmembers subject to certain conditions (see [Required Information](#) section). Increased capital is intended to enable FICUs to support greater lending and improve other financial services for the limited income groups and communities they serve. Certain restrictions are placed on these accounts. Foremost is the accounts may be offered only to organizational investors, not to natural person members or other natural person investors. The regulation requires written notice from the LICU and RD approval prior to accepting secondary capital accounts.

### **A. Secondary Capital Plans**

The board of directors of a LICU will adopt a Secondary Capital Plan (Plan) and forward it to the appropriate RD for approval. Section 701.34(b)(1) discusses the minimum Plan requirements.

#### **i. Required Information**

Each secondary capital account established by a LICU must meet the regulatory requirements, which require a written Plan for the use of the funds in the accounts and subsequent liquidity needs to meet the repayment requirements upon maturity.

#### **ii. Timeframes for Approval**

Approval is automatic if a completed Plan is not denied within 45 days of receipt.

#### **iii. Division of Supervision (DOS) Initial Responsibilities**

Within five calendar days of the regional office receiving the Plan, DOS will perform a cursory review to determine whether the Plan meets minimum requirements.

If the Plan is considered incomplete DOS will:

- Contact the credit union to obtain the missing information; or
- Prepare an incomplete/denial letter and send it to the credit union by the region's preferred expedited mail delivery ([Appendix – 6-LL](#)).
- Ensure the letter lists the additional information the credit union must submit if they would like the request to be re-considered. DOS will copy the examiner and supervisory examiner on the letter.

If the Plan is considered complete DOS will:

- Prepare an acknowledgement letter ([Appendix – 6-MM](#)) and send it to the credit union by the region's preferred expedited mail delivery service; and
- Prepare and send a work assignment to the field that includes the credit union's request, the Plan, supporting documentation, and request a recommendation for approval or denial.

#### **iv. Field Review Responsibilities**

Examiners and their supervisor will evaluate the credit union's net worth, CAMEL and risk ratings, and financial strength, and provide a recommendation whether to approve the Plan. After review the examiners will:

- Complete a Regional Summary to include an approval or denial recommendation; and ([Appendix 6-NN](#))
- Draft a letter for approval, partial approval, deferral, or denial and email the letter along with the Regional Summary and any other supporting documentation to their supervisor. (Appendices [6-OO](#) and [6-PP](#) and [6-QQ](#))

The supervisor will review the information, provide supporting reasons for concurrence or non-concurrence, and forward the package to the region's DOS mailbox.

#### **v. DOS Processing and Review Responsibilities**

Upon receipt of the examiner's recommendation, DOS will review and analyze the recommendation for appropriate support and justification.

If DOS and/or the RD do not agree with the field recommendation, the supervisor will be contacted to discuss further, as time permits. The field will be given the opportunity to further support or revise their recommendation.

DOS finalizes the response letter for the RD's signature. Once signed, DOS will mail it to the credit union using the region's preferred expedited mail delivery service and copy both the examiner and supervisor.

## **B. Secondary Capital Redemptions**

The board of directors of a LICU may submit a written request to redeem secondary capital to the RD for approval. Section 701.34(d)(1) discusses requirements to redeem secondary capital.

### **i. Required Information**

The Secondary Capital Redemption (SCR) must be submitted in writing, specify the increment(s) to be redeemed and the schedule for redeeming any part of the eligible increment, and must demonstrate the LICU can meet the minimum requirements.

### **ii. Timeframes for Approval**

Approval for SCR is automatic if not denied within 45 days of receipt.

### **iii. DOS Initial Responsibilities**

Within five calendar days of the regional office receiving the SCR, DOS will perform a cursory review to determine whether the request meets minimum requirements.

If the SCR is considered incomplete DOS will:

- Contact the credit union to obtain the missing information; or
- Prepare an incomplete/denial letter and send it to the credit union by the region's preferred expedited mail delivery.
- Ensure the letter lists the additional information the credit union must submit if they would like the request to be considered. DOS will copy the examiner and supervisory examiner on the letter.

If the SCR is considered complete DOS will:

- Prepare an acknowledgement letter and send it to the credit union by the region's preferred expedited mail delivery service (See [Appendix 6-RR](#))
- Prepare and send a work assignment to the field that includes the credit union's request, the SCR, supporting documentation, and request a recommendation for approval or denial.

#### **iv. Field Review Responsibilities**

The examiner and their supervisor will evaluate the credit union's net worth, CAMEL and risk ratings, and financial strength, and provide a recommendation whether to approve the SCR request. After review, the examiners will:

- Complete a Regional Summary to include an approval or denial recommendation ([Appendix 6-SS](#)).
- Draft a letter for approval, partial approval, deferral, or denial and email the letter along with the Regional Summary and any other supporting documentation to their supervisor (Appendices [6-OO](#) and [6-PP](#) and [6-QQ](#)).

The supervisor will review the information, provide supporting reasons for concurrence or non-concurrence, and forward the package to the region's DOS mailbox.

#### **v. DOS Processing and Review Responsibilities**

Upon receipt of the examiner's recommendation, DOS will review and analyze the recommendation for appropriate support and justification.

If DOS and/or the RD do not agree with the field recommendation, the supervisor will be contacted to discuss further, as time permits. The field will be given the opportunity to further support or revise their recommendation.

DOS finalizes the response letter for the RD's signature. Once signed, DOS will mail it to the credit union using the region's preferred expedited mail delivery service and copy both the examiner and supervisor.

**Appendix 6-A**  
**Fixed Asset Waiver Letter – Denial – Incomplete Request**

Date

SENT VIA [PREFERRED DELIVERY SERVICE] – SIGNATURE REQUIRED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

We reviewed your request for a fixed asset waiver of the five percent limitation on investment in fixed assets pursuant to Section 701.36 of NCUA's Rules and Regulations. The documentation received on Month XX, 20XX is not sufficient to perform an adequate review and make an informed decision. Therefore, I must defer your request at this time.

If you wish for me to reconsider your request, please submit the following information, in addition to the information previously received by this office:

1. The date of the proposed acquisition;
2. The manner in which the acquisition will be financed (i.e. investments or cash);
3. The direct and indirect costs associated with the new acquisition as it relates to net income (i.e. increased maintenance, taxes and utilities, opportunity costs of lost investment income); and
4. Copies of all bids considered in the process and support for proposed dollar amounts of the investment.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[Regional Director Name]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-B

### Fixed Asset Waiver Letter – Acknowledgement - Request Complete

Date

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

We received your request for a waiver of the five percent fixed asset limitation on [date]. We will respond to your request by [within 45 days of receipt].

If you have any questions, please contact Examiner [examiner name] at [phone number].

Sincerely,

[                      ]  
Director of Supervision

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
         EX  
         SSA (when applicable)

## Appendix 6-C

### Regional Summary - Request for Fixed Asset Waiver

<b>REGIONAL SUMMARY</b> <b>Fixed Asset Waiver</b>	
<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>SUPERVISOR NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>TOTAL SHARES AND RETAINED EARNINGS</b>	
<b>NET WORTH RATIO</b>	
<b>CURRENT FIXED ASSETS RATIO</b>	
<b>PROPOSED FIXED ASSETS RATIO</b>	

#### General FOM Description:

#### Reason for Request:

**At a minimum, examiner should consider the following when evaluating a request:**

- Current financial statements including balance sheet and income statement
- Most recent FPR and examination report
- Reasonableness of the current strategic plan
- Necessity and purpose of the purchase
- Proposed dollar amount of expenditures and resulting ratio of total fixed assets to shares and retained earnings
- Alternatives considered by the credit union
- Date of the proposed acquisition
- The financing of the acquisition (i.e. investments or cash)
- Direct and indirect costs associated with the new acquisition as it relates to net income (i.e. increased maintenance, taxes and utilities, opportunity cost of lost investment income)
- Whether any fixed assets will be disposed of or any present expenses eliminated as a part of the proposed investment
- Impact the acquisition will have on liquidity, income, and net worth over the next three to five years
- Adequacy of ALM policies and procedures
- FOM
- Appropriateness of the size, location, and value of the purchase
- Accessibility of building (if this is the reason for the waiver) to members



- Any negative local economic factors
- Assessment of management
- Whether a contingency amount, in addition to the acquisition request, should be approved

### **Balance sheet and income statement projections and assumptions**

(Are the pro forma financial statements reasonable? Consider direct and indirect costs associated with the new acquisition as it relates to net income (i.e., increased maintenance, taxes and utilities, opportunity cost of lost investment income). Consider whether any fixed assets will be disposed of or any present expenses eliminated as part of the proposed investment. *Consider the impact the acquisition will have on liquidity, income and net worth.*)

### **Other pertinent information**

(Consider the appropriateness of the acquisition (i.e., size, location, value). Discuss any negative trends or concerns noted at previous examinations.)

### **EXAMINERS AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:**

(Discuss whether a contingency amount, in addition to the acquisition request should be approved (i.e., 1% of requested acquisition amount). Discuss an appropriate limit of future purchases (aggregate per year) (i.e., the dollar amount of annual depreciation).)

*Examiner's Recommendation:*

*SE/DSA Concurrence:*

### **APPROVAL/DENIAL RECOMMENDATIONS**

#### **Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date \_\_\_\_\_

**Appendix 6-D**  
**Fixed Asset Waiver Letter – Approval**

Date

SENT VIA [PREFERRED DELIVERY SERVICE] – SIGNATURE REQUIRED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I approve your request for a fixed asset waiver of the five percent limitation on investment in fixed assets pursuant to Section 701.36 of NCUA's Rules and Regulations. Based upon a review of all data submitted, I approve your proposed investment in fixed assets in the amount of \$XX,XXX,XXX, as itemized below:

Existing Fixed Assets as of Month/Date/Year	\$ X,XXX,XXX
Land	X,XXX,XXX (already purchased)
Building	X,XXX,XXX
Furniture & Equipment	X,XXX,XXX
Contingencies	XXX,XXX (X% based on \$XXX,XXX building and \$XXX,XXX phone system)
<b>TOTAL APPROVED INVESTMENT</b>	<b>\$XX,XXX,XXX</b>

It should also be noted our approval is granted only for the investment in fixed assets listed above and is in effect until Month XX, 20XX. If you are unable to complete the acquisition of the assets approved by Month XX, 20XX, then a request for extension of this waiver must be submitted.

Please note our approval includes an additional \$XXX,XXX for "Contingencies." This item may be used to offset any possible cost overruns or unforeseen items not included with your original proposal.

If not used for these items, and if necessary, it may be used for the acquisition of other minor fixed assets necessary in the normal operations of your credit union such as replacement equipment, leased equipment, etc.

Until your investment in fixed assets comprises less than the five percent limitation, you will be limited to the purchase of \$XXX,XXX in the aggregate per year. Any acquisitions which would cause the total annual fixed asset purchases to exceed \$XXX,XXX will need our prior approval.

On a monthly basis, the credit union's ratio of fixed assets to shares and retained earnings should be calculated in accordance with Section 701.36 of NCUA's Rules and Regulations. Documentation should be available for inspection by NCUA upon request. When this ratio falls below five percent, this waiver shall cease.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

**Appendix 6-E**  
**Fixed Asset Waiver Letter - Denial**

Date

SENT VIA [PREFERRED DELIVERY SERVICE] – SIGNATURE REQUIRED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your request for a fixed asset waiver of the five percent limitation on investment in fixed assets pursuant to Section 701.36 of NCUA's Rules and Regulations. Based upon a review of all data submitted, I cannot approve your request at this time. Specifically, your request lacks answers for or does not support the following:

- X
- X
- X

I recognize the need for expansion and commend your efforts in developing a strategic plan to prepare for future financial and operational growth. However, your goals and objectives must be supported by reasonable assumptions, projections, and data. If you would like for me to reconsider your request, please provide answers to the above questions and any other additional data/information to further support your fixed asset waiver request.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-F

### Fixed Asset Waiver Letter – Retroactive Request – Response

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I received your request for a waiver of the regulatory fixed asset limit on [date]. Before investing in additional fixed assets that will result in a ratio of fixed assets/shares and retained earnings above five percent, management must first request and obtain approval from the Regional Director. You failed to seek the waiver prior to the acquisition of fixed assets that caused your aggregate investment in fixed assets to exceed the regulatory limit as required by Section 701.36 of the NCUA Rules and Regulations. NCUA does not approve fixed asset waiver requests retroactively.

I completed my review of your request for a waiver of the limitation on the ownership of fixed assets as provided under Section 701.36(a) of the NCUA Rules and Regulations. I am granting you forbearance only for the proposal provided in your letter of [date], which includes the investment in new computers, office equipment, software, and to budget for an increase in your monthly lease for one of your offices. I anticipate the board of directors will make every effort to reduce the percentage of fixed assets to below five percent of shares and retained earnings in a timely manner.

As provided under Section 701.36(a)(2)(iii), you may make future acquisitions of fixed assets provided the aggregate of all such acquisitions does not exceed [DOLLAR AMOUNT]. This provision is to assist the credit union in obtaining assets required for its day-to-day operations, and will cease after the investment in fixed assets has decreased below [PERCENT] percent of shares and retained earnings.

In the future, I expect full compliance with all NCUA Rules and Regulations. (*Note: For repeat or intentional violators, add the sentence “Should you fail to do so again, I will consider taking administrative action, which may require you to divest of fixed assets.”*)

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

**Appendix 6-G**  
**Nonmember Deposit Letter - More Information Needed**

Date

SENT VIA [PREFERRED DELIVERY SERVICE] – SIGNATURE REQUIRED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your request for an exemption of the 20 percent limitation on nonmember deposits pursuant to Section 701.32 of NCUA's Rules and Regulations. Unfortunately, the documentation received on Month XX, 20XX, is not sufficient for our staff to perform an adequate review and make an informed recommendation. Therefore, I must deny your request at this time.

You may choose to gather further information and discuss it with your examiner at your upcoming examination. If you wish for us to reconsider your request, please submit the following information, in addition to the information previously received by this office:

- The current plan adopted by the credit union's board of directors concerning the use of new public unit and nonmember shares. This plan should include the following:
  - ⇒ A statement of the credit union's needs, sources and intended uses of public unit and nonmember shares;
  - ⇒ Provision for matching maturities of public unit and nonmember shares with corresponding assets, or justification for any mismatch; and
  - ⇒ Provision for adequate income spread between public unit and nonmember shares and corresponding assets.
- A copy of the credit union's loan and investment policies.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)



## Appendix 6-H

### Nonmember Deposit Letter – Acknowledge Receipt – Complete Request

Date

SENT VIA FEDEX

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

We received your [ DATE ] letter on [ DATE ] requesting an exemption from the nonmember deposit limitations of Section 701.32(b)(1) of the NCUA Rules and Regulations (the Regulations), which limits payment on shares from public unit and nonmembers to 20 percent of total shares or \$1.5 million, whichever is greater. [*For state credit unions, add:* [name] Credit Union is subject to the limitations per Section 741.204 of the NCUA Regulations.]

My staff is reviewing this matter, and we will respond by [ DATE – 30 days from date received].

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
       EX  
       SSA (when applicable)

**Appendix 6-I**  
**Nonmember Deposit Letter – Violation Response**

Date

SENT VIA FEDEX

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

We received your [ DATE ] letter on [ DATE ] requesting an exemption from the nonmember deposit limitations of Section 701.32(b)(1) of the NCUA Rules and Regulations (the Regulations), which limits payment on shares from public unit and nonmembers to 20 percent of total shares or \$1.5 million, whichever is greater. [*For state credit unions, add: [name] Credit Union is subject to the limitations per Section 741.204 of the NCUA Regulations.*]

We cannot approve your request at this time. [DESCRIBE REASON FOR DENIAL]

We expect you to reduce the credit union's nonmember deposits to the regulatory limitation within thirty (30) days of receipt of this letter.

You may appeal this decision to the NCUA Board through this office. Please see Section 701.32(b)(2)(iv)(5) of the Regulations for the appeals process. If you choose to appeal, submit your appeal request in a timely manner, providing specific reasons why you believe your request should be approved.

*OR*

Although you exceeded the limitation without prior approval, we are willing to allow the credit union to hold the excess nonmember deposits based on the recommendation of Examiner [examiner name]. However, all future exemption requests must be made prior to accepting nonmember deposits above the regulatory limitation.

This exemption authorizes you to accept nonmember deposits up to a maximum limit of [SPECIFY A PERCENTAGE OF TOTAL SHARES OR A DOLLAR AMOUNT]. This exemption is effective immediately and will expire on [SPECIFY A DATE NOT MORE THAN 2 YEARS FROM DATE OF APPROVAL]. Upon expiration of this exemption, you must apply for another exemption or reduce your nonmember deposits to the regulatory limitation of 20 percent of total assets or \$1.5 million, whichever is greater.

Mr. John Doe  
Date  
Page Two

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

**Appendix 6-J**  
**Regional Summary – Nonmember Deposit Exemption**

<b>REGIONAL SUMMARY</b> <b>Nonmember Deposit Exemption</b>
---

<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>SUPERVISOR NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>NET WORTH RATIO</b>	
<b>CURRENT NONMEMBER DEPOSIT BALANCE</b>	
<b>CURRENT LIMIT</b>	
<b>PROPOSED LIMIT</b>	

**General FOM Description:**

**Reason for Request**

**§701.32(b)(2)) requires a specific written business plan be submitted to the RD that includes a provision for matching maturities of public unit and nonmember shares with corresponding assets, or justification for any mismatch.** Examiners should evaluate the written plan to ensure the credit union includes "a provision for matching maturities of public unit and nonmember shares with corresponding assets, or justification for any mismatch." Per the Regulation, the plan must include:

- A statement of the credit union's needs, sources and intended uses of public unit and nonmember shares;
- Provision for matching maturities of public unit and nonmember shares with corresponding assets, or justification for any mismatch; and
- Provision for adequate income spread between public unit and nonmember deposits and corresponding assets.

A federal credit union seeking an exemption from the limits must submit to the RD a written request including:

- The new maximum level of public unit and nonmember deposits requested, either as a dollar amount or a percentage of total shares;
- The current plan adopted by the credit union's board of directors concerning the use of new public unit and nonmember deposits;
- A copy of the credit union's latest financial statement; and

- A copy of the credit union's loan and investment policies.

Examiners will ensure the credit union has documented:

- Maximum level of public unit accounts and nonmember deposits;
- The credit union's need and intended use for the nonmember deposits in excess of the maximum amount permitted by §701.32(b) of the [NCUA Rules and Regulations](#);
- Impact on profitability including the anticipated spread between the nonmember deposits and expected use of the funds; and

*Do you anticipate this request will have a material adverse impact on the credit union's net worth classification? If yes, why?*

*Are there any anticipated material concerns that approval would have on the credit union's liquidity position? If yes, why?*

#### **Assessment of Management**

**Review of the most recent examination and/or follow-up report and FPR, noting any negative trends**

#### **Other Pertinent Information**

**SSA concurrence (if state-chartered):**

**EXAMINER AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:**

*Examiner's Recommendation:*

*Supervisor Concurrence:*

**APPROVAL/DENIAL RECOMMENDATIONS**

**Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date\_\_\_\_\_

**Appendix 6-K**  
**Nonmember Deposit Letter - Approval**

Date

SENT VIA [PREFERRED DELIVERY SERVICE] – SIGNATURE REQUIRED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your request for a nonmember deposit limit exemption pursuant to Section 701.32 of NCUA's Rules and Regulations. I approve your request for an increase in total nonmember deposits to \$XXX,XXX or X percent of shares. Please be advised only public unit accounts and deposits from other credit unions can be accepted without being designated as a low-income credit union.

This exemption will expire [Insert Date, usually 2 years from approval date].

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
       EX  
       SSA (when applicable)

**Appendix 6-L**  
**Nonmember Deposit Letter - Denial**

Date

SENT VIA [PREFERRED DELIVERY SERVICE] – SIGNATURE REQUIRED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your request for a nonmember deposit limitation exemption pursuant to Section 701.32 of NCUA's Rules and Regulations. My staff reviewed your written business plan as submitted. Based on the following problems noted during the current examination, I must deny your request at this time:

- Poor loan quality
- Lack of compliance with the Document of Resolution issued at the last examination
- Increasing delinquency
- Significant loan losses
- Uncontrolled loan growth

Upon correction of the above problems, I will be willing to reassess increasing your nonmember deposit limit. You may resubmit your request at that time.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)



## Appendix 6-M

### Earnings Transfer Letter – Incomplete Request

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I received your [ DATE ] letter requesting approval to waive your quarterly earnings transfer for the quarter ending [ DATE ]. I acknowledge receipt of your request; however, I cannot approve a reduction in the earnings transfer requirement without evidence to support a determination that such a reduction in the earnings transfer is necessary to avoid a significant redemption of shares as stated in 12 C.F.R. §702.201(b). I will reconsider your request if you provide evidence of your need to pay dividends at your current rates, such as a rate survey of your local area with a comparison to the credit union's rates, by [ DATE – Note – must be approved by last day of month ].

In the future, requests to reduce the earnings transfer must be received by this office 14 days prior to the quarter end in which a reduction in the earnings transfer is necessary. You should adjust operations to the extent possible to generate sufficient earnings to make the transfer.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-N

### Regional Summary –Decrease in Earnings Transfer Requirements

EARNINGS WAIVER AND TRANSFER FORM	
CHARTER NUMBER	
CREDIT UNION NAME	
SUPERVISOR NAME / EXAMINER NAME	
CAMEL CODE / EFFECTIVE DATE OF CAMEL	
FINANCIAL DATA DATE	
TOTAL ASSETS	
TOTAL NET WORTH	
NET WORTH RATIO	
NET WORTH CATEGORY	

Projected Net Income for the Quarter

PCA Required Income for the Quarter (.1%)

Is the waiver of the required earnings retention and/or earnings transfer necessary to avoid a significant redemption of shares? (Reason for request)

Would the waiver of the required earnings retention and/or earnings transfer further the purpose of PCA? (Is action plan appropriate to increase net worth?)

Are projected dividend rates reasonable? (If not included with request, examiner needs to contact CU (or SSA if needed) for documentation)

<b>Comments and Other Pertinent Information:</b> (Optional)
---

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

*Examiner Recommendation:*

*Supervisor Concurrence:*

*Analyst Comments:*

## Appendix 6-O

### Approval Letter - Decrease in Earnings Transfer Requirements

Date

SENT VIA [PREFERRED DELIVERY SERVICE] – SIGNATURE REQUIRED (IF APPLICABLE)

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I am responding to your request for a decrease in Earnings Requirements and Reserve Chargeback pursuant to Section 702.201 [and, if applicable, Sections 702.401 and 702.403] of NCUA Rules and Regulations, received [date] and [date] respectively, necessary due to ABC Federal Credit Union's low net worth position.

#### Earnings Transfer Reduction

ABC Federal Credit Union has reported net worth less than 7 percent since [date]. Because of this, Section 702.201 of the Regulation requires the credit union to earn sufficient earnings to increase the dollar amount of its net worth by 0.10 percent of assets either in the current quarter or an average over the current and three preceding quarters, and to transfer this amount from Undivided Earnings to Regular Reserves or obtain my approval for a for a smaller net worth increase and earnings transfer. I have not received any such requests prior to the request at hand. I will not approve decreases in the earnings transfer requirements for prior periods. However, I will approve a waiver for the quarter ending [date]. This waiver will eliminate the requirement to increase net worth by the 0.10 percent amount and to transfer that amount transfer from Undivided Earnings to Regular Reserves at [date]. However, you must transfer any positive net income for the quarter from Undivided Earnings to Regular Reserves up to 0.10 percent of assets.

[If applicable, RD Response to A FICU's Request to Charge Regular Reserves Where The FICU Has Depleted Its Undivided Earnings **And** The Charge Will Cause the FICU's Net Worth Classification To Fall Below "Adequately Capitalized"]

#### Charge to Regular Reserves

Pursuant to Section 702.401(c) of the Regulation, the ABC Federal Credit Union must have enough funds in Undivided Earnings to cover losses and the payment of dividends. A transfer of funds from Regular Reserves to Undivided Earnings to cover a deficit in Undivided Earnings is possible, but a credit union with your level of net worth must first obtain my approval. I cannot approve your request for a [dollar amount] charge to Regular Reserve as it exceeds your expected deficit in Undivided Earnings. I am authorizing you to transfer from Regular Reserve only the amount necessary to clear (bring to a \$0 balance) the deficit in Undivided Earnings, estimated as the amount of deficit reported at [date] [dollar amount] minus earnings for the [xx] quarter of [date]

*[If applicable, RD Response to A FICU's Request to Pay Dividends Where The FICU Has Depleted Its Undivided Earnings **And** The Payment Will Cause the FICU's Net Worth Classification To Fall Below "Adequately Capitalized"]*

*Payment of Dividends*

I am approving your request to pay dividends in accordance with Section 702.403(b)(2) of the Regulation. You are authorized to pay dividends not to exceed the rates submitted in your request *[or proposed Net Worth Restoration Plan, received [date]]*. As a reminder, you must ensure the Allowance for Loan and Lease Loss account is properly funded prior to the payment of dividends.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
       EX  
       SSA (when applicable)

## Appendix 6-P

### Denial Letter - Decrease in Earnings Transfer Requirements

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I received your [ DATE ] letter requesting approval to reduce the amount of your quarterly earnings transfer for the quarter ending [ QUARTER END DATE ]. I acknowledge receipt of your request; however, I cannot approve a reduction in the earnings transfer requirement for [ QUARTER END DATE ]. Specifically, I cannot approve your request because [ CU NOT MEETING EXPENSE GOALS IN ITS APPROVED RBP/NWRP/LUA, PAYING DIVIDENDS ABOVE CURRENT MARKET, ETC... ]. I remind you that any income earned during the quarter must be transferred to the regular reserve even if it does not meet the regulatory requirements.

In the future, you should adjust operations to the extent possible to generate sufficient earnings to make the transfer. Requests to reduce the earnings transfer must be received by this office 14 days prior to the quarter end in which a reduction in the earnings transfer is necessary. Your request must include evidence of your need to pay dividends at your current rates, such as a rate survey of your local area with a comparison to the credit union's rates.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-Q

### Member Business Loan Letter – 723.10 – More Information Needed – Denial

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for a member business loan limitation waiver pursuant to Section 723 (x) of the NCUA Rules and Regulations. Unfortunately, the documentation received on Month XX, 20XX is not sufficient for my staff to perform an adequate review and make an informed recommendation. Therefore, I cannot act on your request at this time.

Please submit the following information, in addition to the information previously received by this office, if you wish for us to reconsider your request:

- 1.
- 2.

As a reminder, your request cannot be processed until deemed complete. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-R

### Member Business Loan Letter – Acknowledge Receipt of Waiver Request

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

We received your request for a member business loan waiver pursuant to Section 723 (x) of the NCUA Rules and Regulations on [date]. My staff is reviewing this matter, and we will respond to your request by [45 days from date of receipt].

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
       EX  
       SSA (when applicable)

## Appendix 6-S

### Regional Summary - Member Business Loan Waiver

<b>REGIONAL SUMMARY</b> <b>Member Business Loan Waiver</b>	
---	--

<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>SUPERVISOR NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>NET WORTH RATIO</b>	

#### **FOM Description**

#### **Type of Waiver and Limit Requested**

#### **Reason for Request**

Include a discussion of the need to raise the limit.

#### **Assessment of Management**

Discuss whether the credit union included documentation supporting its ability to manage the activity.

#### **Financial condition, trends and projections**

#### **Analysis of credit union's prior experience making member business loan, including (723.11):**

- **History of loan losses and loan delinquency**
- **Volume and cyclical or seasonal patterns**
- **Diversification**
- **Concentrations of credit to one borrower or group of associated borrowers in excess of 15% of net worth**
- **Underwriting standards and practices**
- **Types of loans grouped by purpose and collateral**
- **Qualifications of personnel responsible for underwriting and administering member business loans**

#### **Other pertinent information**

The review should also include:

- The ability to manage the business lending program including current performance;



- A review of the previous examination report to determine if weaknesses in the business lending exists; and
- The ability to absorb the increased level of risk including proper diversification of risk, concentration risk, and impact on net worth.

**SSA concurrence (if state-chartered):**

<b>EXAMINERS AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
---

*Examiner's Recommendation:*

*Supervisor Concurrence:*

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

**Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date \_\_\_\_\_

**Appendix 6-T**  
**MBL Waiver Checklist – Part 723.10**

## MBL Waiver Review Checklist

**Refer to §723.10 through §723.12 of the Regulations for MBL Waiver Requirements**

<b>CU Name</b>	
<b>Charter</b>	
<b>Examiner</b>	
<b>NW Category</b>	

<b>Date Received in Regional Office</b>	
<b>Notification Date Required (45 calendar days from receipt)</b>	
<b>Memo Sent to supervisor</b>	
<b>Follow-up Date</b>	
<b>Follow-up Log #</b>	

1. Type(s) of Waiver Request Sought:	YES	NO	N/A
Appraisal Requirements under §722.3			
Aggregate construction and development loans limits under §723.3(a)			
Minimum borrower equity requirements for construction and development loans under §723.3(b)			
Loan-to-value ratios requirements for member business loans under §723.7(a)			
Requirement for Personal Liability and Guarantee under §723.7(b)			
Maximum unsecured business loans to one member or group of associated members under §723.7(c)(2)			
Maximum aggregate unsecured member business loan limit under §723.7(c)(3);			
Maximum aggregate net member business loan balance to any one member or group of associated members under §723.8			

2. Does the waiver request contain:	YES	NO	N/A
a. Copy of the credit union's business lending policy? §723.11(a)			
b. Higher limit sought (if applicable)? §723.11(b)			
c. Explanation of the need to raise the limit (if applicable)? §723.11(c)			
d. Documentation supporting the credit union's ability to manage this activity? §723.11(d)			
e. Analysis of the credit union's prior experience making member business loans, including as a minimum:			
1. History of loan losses and loan delinquency? §723.11(e)(1);			
2. Volume and cyclical or seasonal patterns? §723.11(e)(2);			
3. Diversification? §723.11(e)(3)			

4. Concentration of credit to one borrower or group of associated borrowers in excess of 15% of net worth? §723.11(e)(4)			
5. Underwriting standards and practices? §723.11(e)(5)			
6. Types of loans grouped by purpose and collateral? §723.11(e)(6)			
7. Qualifications of personnel responsible for underwriting and administering member business loans? §723.11(e)(7)			

<b>3. If state chartered, did the SSA provide written approval/denial? §723.11</b>			
--	--	--	--

<b>4. Was the level of risk to the credit union evaluated? §723.12(b)</b>			
---	--	--	--

<b>5. Was an analysis of the credit union's CAMEL rating performed? §723.12(c)</b>			
--	--	--	--

Comments:

<p><b>Include the ratio or amount sought at the time of the request <u>and</u> the current ratio or amount.</b></p>
---

**Appendix 6-U**  
**Member Business Loan Letter – 723.10 – Approval**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for a member business loan waiver pursuant to Section 723.XX of the NCUA Rules and Regulations. I authorize your credit union to grant member business loans [enter approval limits]. This waiver extends through [Month XX, 20XX – *for blanket waivers*], or [until you are within the Regulation, whichever comes first – *for individual waivers/non-blanket waivers*].

This approval is contingent upon your credit union's compliance with all other requirements of Part 723 of the NCUA Rules and Regulations as well as the implementation of safe and sound lending practices. This waiver may be terminated at any time upon violation of the business loan regulation or any other law or regulation governing federally insured credit unions, or if lending practices and procedures are deemed unsafe by NCUA.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-V

### Member Business Loan Letter – 723.10 – Denial

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for a member business loan limitation waiver pursuant to Section 723.X of the NCUA Rules and Regulations. As indicated in your letter, you are requesting to raise the credit union's limit from [enter requested limit and type]. Based on the Month XX, 20XX, financial statements, X percent of net worth is \$XXX,XXX.

A lending limit of X places undue risk on the balance sheet in relation to the capital position of the credit union. [Expand on reasons]

Based on the above information and the information presented in your letter dated Month XX, 2001, I deny your request to exceed the limitation of Part 723.

You may appeal this decision in writing to the NCUA Board. Your appeal must include all information requested in Section 723.11 and why you disagree with the decision. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-W

### Regional Summary - Member Business Loan Nonmember Aggregate Approval – 723.16

<b>REGIONAL SUMMARY</b> <b>Member Business Loan Nonmember Aggregate Approval</b>	
---	--

<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>SUPERVISOR NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>NET WORTH RATIO</b>	

#### **FOM Description**

##### **Limit Requested**

(Include the limit to assets or limit to net worth.)

##### **Reason for Request**

(Include a discussion of the need and purpose for raising the limit.)

##### **Assessment of Management**

(Include discussion of the credit union's member business loan policy and practice and participation or purchase policy, if appropriate. Discuss whether the credit union included documentation supporting its ability to manage and monitor a large MBL portfolio. Discuss the credit union's due diligence practices, particularly for acquired nonmember loans.)

##### **Financial condition, trends and projections**

##### **Other pertinent information**

(Include a discussion of any additional risk posed by the waiver on the credit union's liquidity, income, net worth. Include a discussion of any unresolved examination issues.)

##### **SSA concurrence (if state-chartered):**

<b>EXAMINERS AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
---

*Examiner's Recommendation:*

*Supervisor Concurrence:*

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

**Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

---

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date\_\_\_\_\_

## Appendix 6-X

### Member Business Loan Nonmember Aggregate Letter – 723.16 – Approval

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for approval of the aggregate member business loan limit pursuant to Section 723.16 of the NCUA Rules and Regulations. I approve an aggregate limit of X percent of nonmember business loans to [assets or net worth].

This approval is contingent upon your credit union's compliance with all other requirements of Part 723 of the NCUA Rules and Regulations as well as the implementation of safe and sound lending practices. The nonmember loans must comply with all other limitations and requirements of Part 723. This waiver may be terminated at any time upon violation of the business loan regulation or any other law or regulation governing federally insured credit unions, or if your credit union's lending practices and procedures are deemed unsafe by NCUA. It is incumbent upon the board of directors to ensure all loans, including member and nonmember business loans issued directly or acquired through purchased participation interests, meet all the applicable safety and soundness requirements of NCUA Rules and Regulations.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)



## Appendix 6-Y

### Member Business Loan Nonmember Aggregate Letter – 723.16 – Denial

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for approval to exceed the aggregate member business loan limit, considering the nonmember loans on your books. As indicated in your letter, you are requesting to raise the credit union's limit to X percent of [assets or net worth]. Based on the Month XX, 20XX, financial statements, X percent of net worth is \$XXX,XXX.

I deny your request to exceed the aggregate limitation of Section 723.16 as an exceeded limit would place undue risk on the balance sheet in relation to the capital position of the credit union due to:

- 
- 
- 

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-Z

### Regional Summary – Investment Pilot Program Recommendation

REGIONAL SUMMARY Investment Pilot Program	
CHARTER NUMBER	
CREDIT UNION NAME	
SE/EX/RCMS NAMES	
CAMEL CODE / EFFECTIVE DATE OF CAMEL	
FINANCIAL DATA DATE	
TOTAL ASSETS	
TOTAL SHARES AND RETAINED EARNINGS	
NET WORTH RATIO	

#### Examiner Comments

- **§703.19 Required Information** - *Completeness of the information supporting the request*
- **CAMEL and Risk Ratings** - *Most recent examination CAMEL codes and major areas of risk and their respective ratings (strategic, credit, interest rate, liquidity, compliance, transaction, and reputation) from the most recent examination including the weaknesses or problems noted.*
- **Board and Senior Management Capabilities** - *Credit union's board, senior management, and the staff's capabilities of managing and monitoring the proposed investment activities.*

#### Supervisor Comments

#### Analyst Comments

#### APPROVAL/DENIAL RECOMMENDATIONS

District Examiner \_\_\_\_\_ Date \_\_\_\_\_

APPROVE ☐

DISAPPROVE ☐

Supervisory Examiner \_\_\_\_\_ Date \_\_\_\_\_

APPROVE ☐

DISAPPROVE ☐

Supervision Analyst \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

---

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date\_\_\_\_\_

## Appendix 6-AA

### Change of Officials – Acknowledgement Letter of Complete Application

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

On [date], we received your request regarding the approval of [name] for the position of [POSITION] at [CU NAME].

We are processing your request pursuant to the National Credit Union Administration Rules and Regulations §701.14. We will advise you of our decision by [30 DAYS FROM WHEN THE Regional Office RECEIVED THE COMPLETE PACKAGE]. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Director of Supervision

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

**Appendix 6-BB**  
**Change of Officials – Incomplete Application**

Date

Ms. Jane Smith [Applicant]  
Address  
City, State Zip Code

Dear Ms. Smith:

Pursuant to Part 212 of the Federal Credit Union Act and Sections 701.14 and 747 (Subpart J) of the National Credit Union Administration Rules and Regulations, we reviewed the information provided on your qualifications to serve on the board of directors of the ABC Federal Credit Union.

Our review indicated that your application is incomplete. You did not provide your employment history and left the questions in Section XX unanswered. Please complete these sections of your application and resubmit the form for our review. In order to reconsider your application, please complete these sections and resubmit the form within 30 days from receipt of this letter. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Director of Supervision

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: John Doe, ABC FCU Chairperson  
SE  
EX  
SSA (when applicable)

## Appendix 6-CC

### Change of Officials – Pre-Adverse Action Disclosure Letter

Date

Ms. Jane Smith [Applicant]  
Address  
City, State Zip Code

Dear Ms. Smith:

Pursuant to Section 212 of the Federal Credit Union Act and Parts 701.14 and 747 (Subpart J) of the National Credit Union Administration Rules and Regulations, we reviewed the information provided on your application to serve on the board of directors of [name] Credit Union.

As part of our review of your qualifications, we obtained a copy of your credit report. We have performed a preliminary review of the report and determined that information in it may contribute to a decision resulting in adverse action. This letter is our required pre-adverse action disclosure. We will notify you of final action on your application by [date].

Attached you will find a copy of your credit report and a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act”. The contact information for the Experian Credit Reporting Agency who provided the credit report is:

Experian Credit Reporting Agency  
Address  
City, ST Zip  
(XXX) XXX-XXXX

Please contact the Division of Supervision at [phone number] if you have any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER’S INITIALS]  
SSIC XXXX  
Charter #  
Enclosure

*Note: Do not CC any other parties*

[Separate page]bcc: SE  
EX

## Appendix 6-DD

### Change of Officials – Denial in part due to Adverse Credit – Letter to CU

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

Pursuant to Section 212 of the Federal Credit Union Act, 12 U.S.C. § 1790a(b) and Parts 701.14 and 747 (Subpart J) of the National Credit Union Administration Rules and Regulations, 12 C.F.R. Parts 701 and 747, we reviewed the information provided on [NAME's] qualifications to serve as [SPECIFY POSITION] for ABC Federal Credit Union.

Both the Federal Credit Union Act and the National Credit Union Administration Rules and Regulations provide for denial of an individual when evidence of the individual's competence, experience, character, or integrity indicates it would not be in the best interest of the credit union's members or the public to permit the individual's association with the credit union.

We have completed our review of the information provided by your credit union and [name], along with other information obtained during our review. Based on our review, I am denying [NAME'S] application to serve as a member of the board of directors of the ABC Federal Credit Union.

With regards to our review of [NAME's] competence and experience, we have determined that [insert detailed explanation of findings regarding competence and experience].

Additionally, information contained on [NAME'S] credit report adversely reflects upon his character and integrity, which forms part of the basis for my decision. Specifically, [insert specific issues involving credit and explain how they are related to character and integrity].

Within 15 days of receipt of the Notice to Denial, you may file a request for reconsideration of this determination at this office or appeal the determination directly to the National Credit Union Administration Board. Your request for reconsideration or appeal should address the above items. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]

SSIC XXXX

Charter #

cc: SE  
EX  
SSA (when applicable)



**Appendix 6-EE**  
**Change of Officials – Approval**

Date

Ms. Jane Smith [Applicant]  
Address  
City, State Zip Code

Dear Ms. Smith:

Pursuant to Section 701.14 of the National Credit Union Administration Rules and Regulations, we reviewed the information sent to us regarding your participation with [name] Credit Union.

Based on the information available to us, we approve your serving on the [Board of Directors, as Committee Member, etc.], of [name] Credit Union. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     [name], Board Chairperson  
         [name], CEO SE  
         EX  
         SSA (when applicable)

## Appendix 6-FF

### Change of Officials – Waiver of the 30 Day Notification Requirement

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

We received your letter on [date], which indicated the board of directors has selected [name] for the position of [POSITION] of the ABC Federal Credit Union.

Pursuant to the National Credit Union Administration Rules and Regulations Section 701.14 (d) (2), the waiver of the 30-day prior notice requirement that you requested is hereby granted. Please note, however, that the waiver shall not affect the authority of the National Credit Union Administration to issue a Notice of Denial.

We are processing your request and will advise you of our decision to either approve or disapprove [NAME'S] appointment by [DATE - 30 DAYS FROM THE DATE OF THIS LETTER]. In the interim, we do not object to [name] acting in the capacity of [POSITION] of the credit union. (For a FISCO ADD: provided you obtain the concurrence of the State Supervisory Authority). Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

**Appendix 6-GG**  
**Change of Officials – Withdrawal of Application**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

On [date], we received your request to withdraw the Notice of Change in Official and Individual Application for Approval of Official form requesting approval of [name] to serve on the board of directors of ABC Federal Credit Union.

We have processed your request and you may consider this letter as notification of completion. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
         EX  
         SSA (when applicable)

**Appendix 6-HH**  
**Waiver Types and Timeframes**

<b>R&amp;R Section</b>	<b>Description</b>	<b>Timeframe</b>	<b>Automatic Approval?</b>
<b>Member Business Loans</b>			
§722.3 Appraisal Requirements <sup>53</sup>	Use of an alternate valuation method or type of appraiser not addressed in this section.	45 Days	Yes
§723.3(a) Aggregate Construction and Development (C&D) Loan Limits	Waiver to exceed aggregate C&D loan limit of 15% of net worth.	45 Days	Yes
§723.3(b) Minimum Borrower Equity Requirements for Construction and Development Loans	Waiver of the 25% equity interest in the project financed.	45 Days	Yes
§723.7(a) LTV Ratio Requirements for MBLs	Waiver to exceed 80% LTV, or 95% LTV with PMI or some other guarantee allowed per the regulation.	45 Days	Yes
§723.7(b) Requirement for Personal Liability and Guarantee	<p>Waiver of the personal liability and guarantee requirement for the specific MBL.</p> <p>Waiver(s) may be granted on a single loan or as a blanket waiver with certain restrictions as outlined below. In small businesses and investor real estate lending, it is standard practice for the principal to shoulder the bulk of the risk through personally guaranteeing the loan as they generally are in a position to personally benefit the most from the success of the business entity.</p>	45 days	Yes
§723.7(c)(2) Maximum Unsecured MBL to One Member or Group of Associated Members	Waiver to exceed aggregate unsecured MBL limit of the unsecured outstanding member business loans to any one member or group of associated members of the lesser of \$100,000 or 2.5% of net worth	45 Days	Yes

<sup>53</sup> The waiver for this requirement is outlined in §722.3(a)(9) and §723.10(a) of the Rules and Regulations. The approval timeframe is outlined in §723.12(d).

§723.7(c)(3) Maximum Aggregate Unsecured MBL Loan Limit	Waiver to exceed the aggregate amount of all unsecured outstanding MBLs of 10% of net worth	45 Days	Yes
§723.8 Maximum Aggregate NMBL to Any One Member or Group of Associated Members	Waiver for a higher amount, the aggregate amount of net member business loan (NMBL) balances to any one member or group of associated members must not exceed the greater of 15% of the credit union's net worth or \$100,000.	45 Days	Yes
<b>Other waiver types</b>			
§701.14 c(2)(i) Waiver of Prior Notice – Change in Official or Senior Executive	Parties may petition the appropriate Regional Director for a waiver of the prior notice required. Waiver may be granted if it is found that delay could harm the credit union or the public interest.	None	No
§701.21(h) Third-party servicing of indirect vehicle loans.	(1) A federally-insured credit union must not acquire any vehicle loan, or any interest in a vehicle loan, serviced by a third-party servicer if the aggregate amount of vehicle loans and interests in vehicle loans serviced by that third-party servicer and its affiliates would exceed: (i) 50 percent of the credit union's net worth during the initial thirty months of that third-party servicing relationship; or (ii) 100 percent of the credit union's net worth after the initial thirty months of that third-party servicing relationship. (2) Regional directors may grant a waiver of the limits in paragraph (h)(1) of this section to permit greater limits upon written application by a credit union.	None	No
§715.9c(6) Audit waiver	Specify a target date of delivery of the written reports. Such target date not to exceed 120 days from date of calendar or fiscal yearend under audit (period covered), unless the supervisory committee obtains a waiver from the supervising NCUA Regional Director	None	No

Approvals			
§723.16(b)(2) Aggregate Member Business Loan Limit	To request approval from the NCUA regional director, a credit union must submit an application that: Includes a current copy of the credit union's member business loan policies; Confirms that the credit union is in compliance with all other aspects of this rule; States the credit union's proposed limit on the total amount of nonmember loans and participation interests that the credit union may acquire if the application is granted.	30 Days	N/A  <i>(mandates a 30 day time frame but does not state automatic approval)</i>

## Appendix 6-II

### Change of Officials – Denial due in part to Adverse Credit – Letter to Applicant

Date

Ms. Jane Smith [Applicant]

Address

City, State Zip Code

Dear Ms. Smith:

Pursuant to Section 212 of the Federal Credit Union Act, 12 U.S.C. § 1790a(b) and Parts 701.14 and 747 (Subpart J) of the National Credit Union Administration Rules and Regulations, 12 C.F.R. Parts 701 and 747, we reviewed the information provided on your qualifications to serve as [specify position] for the ABC Federal Credit Union.

Both the Federal Credit Union Act and the National Credit Union Administration Rules and Regulations provide for denial of an individual when evidence of the individual's competence, experience, character, or integrity indicates it would not be in the best interest of the credit union's members or the public to permit the individual's association with the credit union.

We have completed our review of the information provided by you and the credit union, along with other information obtained during our review. Based on our review, I am denying your application to serve as a member of the board of directors of the ABC Federal Credit Union.

With regards to our review of your competence and experience, we have determined that [insert detailed explanation of findings regarding competence and experience].

From our review your character and integrity, we have determined that [insert explanation of findings regarding character and integrity with detailed explanation].

Information contained on your credit report adversely reflects upon your character and integrity, [insert explanation of nexus between adverse credit and character and integrity] which forms part of the basis for my decision.

The credit report was provided by XYZ Credit Reporting Agency. The contact information for this agency is:

XYZ Credit Reporting Agency  
1234 Credit Boulevard  
Anytown, US 12345  
(123) 456-7890

The XYZ Credit Reporting Agency only supplied the credit report; they did not make the decision to take adverse action and cannot give specific reasons for it. You have the right to dispute the accuracy or completeness of any information the credit reporting agency furnished, and you have the right to an additional free consumer report from the credit reporting agency upon request within 60 days.

Within 15 days of receipt of the Notice of Denial, you may file a request for reconsideration of this determination at this office or appeal the determination directly to the National Credit Union Administration Board. Your request for reconsideration or appeal should address the above items. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
         EX  
         SSA (when applicable)



## Appendix 6-JJ

### Change of Officials – Denial NOT due in part to Adverse Credit

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

Pursuant to Section 212 of the Federal Credit Union Act, 12 U.S.C. § 1790a(b) and Parts 701.14 and 747 (Subpart J) of the National Credit Union Administration Rules and Regulations, 12 C.F.R. Parts 701 and 747, we reviewed the information provided on [NAME's] qualifications to serve as [specify job] for the ABC Federal Credit Union.

Both the Federal Credit Union Act and the National Credit Union Administration Rules and Regulations provide for denial of an individual when evidence of the individual's competence, experience, character, or integrity indicates it would not be in the best interest of the credit union's members or the public to permit the individual's association with the credit union.

We have completed our review of the information provided by your credit union and [NAME], along with other information obtained during our review. Based on our review, I am denying [NAME'S] application to serve as a member of the board of directors of the ABC Federal Credit Union.

With regards to our review of [NAME's] competence and experience, we have determined that [insert explanation of findings regarding competence and experience with detailed explanation].

From our review [NAME's] character and integrity, we have determined that [insert explanation of findings regarding character and integrity with detailed explanation].

Within 15 days of receipt of the Notice of Denial, you may file a request for reconsideration of this determination at this office or appeal the determination directly to the National Credit Union Administration Board. Your request for reconsideration or appeal should address the above items. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX

Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-KK

### Change of Officials – Denial NOT due in part to Adverse Credit – Letter to Applicant

Date

Ms. Jane Smith [Applicant]

Address

City, State Zip Code

Dear Mr. Doe:

Pursuant to Section 212 of the Federal Credit Union Act, 12 U.S.C. § 1790a(b) and Parts 701.14 and 747 (Subpart J) of the National Credit Union Administration Rules and Regulations, 12 C.F.R. Parts 701 and 747 we reviewed the information provided on your qualifications to serve as [specify position] for the ABC Federal Credit Union.

Both the Federal Credit Union Act and the National Credit Union Administration Rules and Regulations provide for denial of an individual when evidence of the individual's competence, experience, character, or integrity indicates it would not be in the best interest of the credit union's members or the public to permit the individual's association with the credit union.

We have completed our review of the information provided by you and the credit union, along with other information obtained during our review. Based on our review, I am denying your application to serve as a member of the board of directors of the ABC Federal Credit Union.

With regards to our review of your competence and experience, we have determined that [insert detailed explanation of findings regarding competence and experience].

From our review your character and integrity, we have determined that [insert explanation of findings regarding character and integrity with detailed explanation].

Within 15 days of receipt of the Notice of Denial, you may file a request for reconsideration of this determination at this office or appeal the determination directly to the National Credit Union Administration Board. Your request for reconsideration or appeal should address the above items. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]

SSIC XXXX

Charter #

cc: SE

EX  
SSA (when applicable)

**Appendix 6-LL**  
**Secondary Capital Plan Application Incomplete (Deferral) Letter**

Date

**Sent Via – FEDERAL EXPRESS – Signature Required**

Name  
Board Chairperson  
Address  
City, State Zip Code

Dear Mr./Mrs. Name:

We reviewed your credit union's proposed Secondary Capital Plan and application received on [insert date]. The plan and supporting documents do not meet the requirements of Section 701.34 of the NCUA Rules and Regulations. The documentation is not sufficient to perform an adequate review and make an informed decision. Therefore, I must defer your request at this time.

If you wish for me to reconsider your request, please submit the following information, in addition to the information previously received by this office:

1. XX;
2. XX; and
3. XX.

If you have any questions, please contact Supervision Analyst [insert name] at [phone number].

Sincerely,

[                      ]  
Regional Director

[OFFICE]/DOS/XXX:XX  
FCU/SCU-XX

cc: Jane Smith, CEO  
SE  
EX  
SSA (when applicable)

## Appendix 6-MM

### Secondary Capital Plan Application Request Acknowledgment Letter

Date

Mr. John Doe  
Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip

Dear Mr. Doe:

On [insert date], we received your Secondary Capital Plan submitted for our approval pursuant to Section 701.34(b) of the NCUA Rules and Regulations. We will respond to your request by [45 days from receipt date].

If you have any questions, please contact Supervisory Examiner [full name] or Examiner [full name] at [phone number].

Sincerely,

[  
Director of Supervision

[Office]/DOS/XXX:XX  
FCU XXXXX-XX

cc: Jane Smith, CEO  
SE Name  
EX Name  
SSA – State (if applicable)

bcc: FCU XXXXX  
ARDP Name  
Reading

**Appendix 6-NN**  
**Secondary Capital Plan Application – Regional Summary**

<b>REGIONAL SUMMARY</b> <b>Secondary Capital Plan Application</b>	
<b>Charter Number</b>	
<b>Credit Union Name</b>	
<b>Supervisor Name/Examiner Name</b>	
<b>CAMEL Code/Effective Date of CAMEL</b>	
<b>Financial Data Date</b>	
<b>Total Assets</b>	
<b>Current Net Worth Ratio</b>	
<b>Proposed Net Worth Ratio</b>	
<b>Proposed Uninsured Secondary Capital Amount</b>	

**General FOM Description:**

**Reason for Request and Strategy for Funds Received:**

**At a minimum, the examiner must review the Secondary Capital Plan (Plan) to ensure it was approved by the Board of Directors and addresses the following regulatory requirements from §701.34(b)(1):**

- 1. Does the Plan state the maximum aggregate amount of uninsured secondary capital the credit union plans to accept?**
- 2. Does the Plan identify the purpose for which the aggregate secondary capital will be used, and how it will be repaid?**
- 3. Does the Plan explain how the credit union will provide for liquidity to repay the secondary capital upon maturity of the accounts?**
- 4. Does the Plan demonstrate the planned uses of secondary capital conform to the credit union’s strategic plan, business plan, and budget?**
- 5. Does the Plan include supporting pro forma financial statements, including any off-balance sheet items, covering a minimum of the next two years?**

In addition, please consider the following questions:

- Is the credit union manager capable of effectively managing the project the proposed secondary capital funds will be utilized for?
- Are there any pending examination concerns that the credit union should resolve prior to receiving approval for the secondary capital funds?
- Any concerns regarding the long-term viability of the credit union?
- Any concerns regarding the proposed usage of the secondary capital funds?

**Balance sheet and income statement projections and assumptions**

(Consider the impact the loan will have on liquidity, income, and net worth.)

**Other pertinent information**

(Consider the appropriateness of the loan. Discuss any negative trends or concerns noted at previous examinations.)

<b>EXAMINERS AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
---

*Examiner's Recommendation:*

*SE/DSA Concurrence:*

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

Analyst Comments:

APPROVE ☐

DISAPPROVE ☐

Supervision Analyst \_\_\_\_\_ Date \_\_\_\_\_

APPROVE ☐

DISAPPROVE ☐



Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date\_\_\_\_\_

**Appendix 6-00**  
**Secondary Capital Plan Application Approval Letter**

Date

Name  
Board Chairperson  
Address  
City, State Zipcode

Dear Mr./Mrs. Name:

I reviewed your credit union's proposed Secondary Capital Plan and application received on [insert date], followed with additional information that completed your application on [insert date if needed]. The plan and supporting documents meet the requirements of Section 701.34 of the NCUA Rules and Regulations. As such, I approve with the below condition your request to accept \$[insert amount] from the National Federation of Community Development Credit Unions (Federation) for a term of XX years with the below condition.

Please note my approval is contingent upon this office receiving copies of the signed loan agreement, note, and disclosure and acknowledgement within 10 days of both parties signing. Please ensure the loan agreement, note, and disclosure and acknowledgement are identical to the final unsigned ones submitted to this office. If these documents are not identical in all regards, you will need to obtain my approval prior to signing and receiving the funds.

If you have any questions, please contact Supervision Analyst [insert name] at [phone number].

Sincerely,

[                      ]  
Regional Director

[Office]/DOS/XXX:XX  
FCU/SCU-XX

cc: Jane Smith, CEO  
SE  
EX  
SSA (when applicable)

bcc: FCU/SCU \*  
ARDP or ARDO  
Reading  
FU [Date] to SA [insert name]

## Appendix 6-PP

### Secondary Capital Plan Application Contingent Approval Letter

Date

Name

Board Chairperson

Address

City, State Zipcode

Dear Mr./Mrs. Name:

I reviewed your credit union's proposed Secondary Capital Plan and application received on [insert date], followed with additional information that completed your application on [insert date if needed]. The plan and supporting documents meet the requirements of Section 701.34 of the NCUA Rules and Regulations. I approve your request to accept \$[insert amount] from the National Federation of Community Development Credit Unions (Federation) for a term of XX years with the below condition.

Please note my approval is contingent upon this office receiving copies of the signed loan agreement, note, and disclosure and acknowledgement within 10 days of both parties signing. Please ensure the loan agreement, note, and disclosure and acknowledgement are identical to the final unsigned ones submitted to this office. If these documents are not identical in all regards, you will need to obtain my approval prior to signing and receiving the funds.

If you have any questions, please contact Supervision Analyst [insert name] at [phone number].

Sincerely,

[  
Regional Director

[Office]/DOS/XXX:XX  
FCU/SCU-XX

cc: Jane Smith, CEO  
SE  
EX  
SSA (when applicable)

bcc: FCU/SCU \*  
ARDP or ARDO  
Reading  
FU [Date] to SA [insert name]

**Appendix 6-QQ**  
**Secondary Capital Plan Denial Letter**

Date

Name  
Board Chairperson  
Address  
City, State Zipcode

Dear Mr./Mrs. Name:

We reviewed your credit union's proposed Secondary Capital Plan (Plan) and application received on [insert date]; however, we cannot approve your acceptance of secondary capital at this time. We noted the following deficiencies with your request:

4. XX;
5. XX; and
6. XX.

Once you address the issues discussed above, you may resubmit your Plan. If you have any questions, please contact Supervision Analyst [insert name] at [phone number].

Sincerely,

[  
Regional Director

[Office]/DOS/XXX:XX  
FCU/SCU-XX

cc: Jane Smith, CEO  
SE  
EX  
SSA (when applicable)

bcc: FCU/SCU \*  
ARDP or ARDO  
Reading  
FU [Date] to SA [insert name]

**Appendix 6-RR**  
**Secondary Capital Redemption Request Acknowledgement Letter**

Date

Mr. John Doe  
Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip

Dear Mr. Doe:

On Date, we received your request to redeem \$XXXX in secondary capital from the US Treasury Department's Community Development Capital Initiative program. We will respond to your request by [45 days from receipt date].

If you have any questions, please contact Supervisory Examiner [Full Name] or Examiner [Full Name] at [phone number].

Sincerely,

[  
Director of Supervision

[Office]/DOS/XXX:XX  
FCU XXXXX-XX

cc: Jane Smith, CEO  
SE Name  
EX Name

bcc: FCU XXXXX  
ARDP Name  
Reading



## Appendix 6-SS

### Secondary Capital Redemption Request Regional Summary

<b>REGIONAL SUMMARY</b> <b>Secondary Capital Plan Redemption</b>	
<b>Charter Number</b>	
<b>Credit Union Name</b>	
<b>Supervisor Name/Examiner Name</b>	
<b>CAMEL Code/Effective Date of CAMEL</b>	
<b>Financial Data Date</b>	
<b>Total Assets</b>	
<b>Total Shares and Retained Earnings</b>	
<b>Current Net Worth Ratio</b>	
<b>Proposed Net Worth Ratio</b>	
<b>Current Cash &amp; Short-term Investment Ratio</b>	
<b>Proposed Cash &amp; Short-term Investment Ratio</b>	

**General FOM Description:**

**Reason for Request:**

**Strategy for Secondary Capital Plan Funds:**

(Review the credit union's initial submission, document the initial plan for the funds and if implementation was successful. Why or why not?)

**At a minimum, the examiner must consider the following when evaluating a request:**

- The credit union will have a post-redemption net worth classification of “adequately capitalized” under part 702;
- The discounted secondary capital has been on deposit at least two years;
- The discounted secondary capital will not be needed to cover losses prior to the final maturity of the account;
- The credit union's books and records are current and reconciled;
- The proposed redemption will not jeopardize other current sources of funding, if any, to the credit union; and
- The request to redeem is authorized by resolution of the LICU's board of directors.

**Balance sheet and income statement projections and assumptions**

(Consider the impact the redemption will have on liquidity, income and net worth.)

**Other pertinent information**

(Consider the appropriateness of the redemption. Discuss any negative trends or concerns noted at previous examinations.)

<b>EXAMINERS AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
---

*Examiner's Recommendation:*

*SE/DSA Concurrence:*

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

**Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date\_\_\_\_\_

**Appendix 6-TT**  
**Secondary Capital Redemption Approval Letter**

Date

First Last Name  
Board Chairperson  
Address  
City, State Zipcode

Dear Mr./Mrs. Name:

I reviewed your credit union's request to redeem its Community Development Capital Initiative (CDCI) investment issued by the U.S. Department of the Treasury (Treasury) pursuant to Section 701.34 of the NCUA Rules and Regulations.

I approve your request to redeem the \$[insert dollar amount] secondary capital CDCI investment. The Office of Small Credit Union Initiatives will notify the Treasury that we approved your redemption request.

If you have any questions, please contact Supervision Analyst [insert name] at [phone number].

Sincerely,

[                      ]  
Regional Director

V/DOS/XXX:XX  
FCU/SCU-XX

cc: Jane Smith, CEO  
Pamela Williams, Partnerships & Outreach Coordinator  
Office of Small Credit Union Initiatives  
SE [insert last name]  
EX [insert last name]  
SSA (when applicable)

bcc: FCU/SCU \*  
ARDP or ARDO  
Reading

**OSCUI Required Notifications**

Pamela Williams: [pwilliams@ncua.gov](mailto:pwilliams@ncua.gov) and [oscuimail@ncua.gov](mailto:oscuimail@ncua.gov)

## Appendix 6-UU

### Loan Participation Limitation Waiver Letter –More Information Needed – Denial

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for a loan participation limitation waiver pursuant to Section 701.22(b)(5)(ii or iv) of the NCUA Rules and Regulations. Unfortunately, the documentation received on Month XX, 20XX is not sufficient for my staff to perform an adequate review and make an informed recommendation. Therefore, I cannot act on your request at this time.

Please submit the following information, in addition to the information previously received by this office, if you wish for us to reconsider your request:

- 1.
- 2.

As a reminder, your request cannot be processed until deemed complete. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-VV

### Loan Participation Limitation Waiver – Acknowledge Receipt of Waiver Request

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

We received your request for a loan participation limitation waiver pursuant to Section 701.22(b)(5)(*ii or iv*) of the NCUA Rules and Regulations on [date]. My staff is reviewing this matter, and we will respond to your request by [45 days from date of receipt of completed waiver request, including any written concurrence if required].

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 6-WW

### Regional Summary – Loan Participation Limitation Waiver

<b>REGIONAL SUMMARY</b> <b>Loan Participation Limitation Waiver</b>
--

<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>SUPERVISOR NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>NET WORTH RATIO</b>	

#### FOM Description

#### Type of Waiver and Limit Requested

#### Reason for Request

Include a discussion of the need to raise the limit.

#### Assessment of Management

Discuss whether the credit union included documentation supporting its ability to manage the activity.

#### Financial condition, trends and projections

#### Analysis as outlined in Supervisory Letter 13-4:

- The credit union's financial capacity, management capability, and experience to absorb and manage the type of risk being assumed. This includes the credit union's ability to conduct due diligence tailored to the complexity of the third-party relationships involved.
- The credit union's history of financial and operational performance. Credit unions need to exhibit financial strength and consistent operating performance to warrant a waiver.
- Loan participation policies and procedures that encompass the types of loans the credit union will purchase, underwriting standards, concentration limits for collateral types, geographical locations, and other key risk factors.
- The capability of the credit union's risk management systems and processes including:
  - quality control procedures such as post-closing review of documents.
  - quality and comprehensiveness of the master participation agreement(s).
  - effectiveness of credit administration.
  - monitoring of the liquidity and financial health of the originating lender, servicer or both.

Credit unions requesting blanket waivers need to meet high standards of lending and management capability. This includes:

- Strong loan underwriting and demonstrated portfolio management expertise including:
  - Appropriate lending, accounting, and legal expertise.
  - Appropriate policies, procedures, quality and internal controls.
  - Effective portfolio monitoring techniques, scaled to the size and complexity of the portfolio and types of credit in the portfolio.
  - Effective, well developed, corporate governance practices.
  - Sufficient levels of net worth consistent with the size, concentrations, and complexity of risks present in the credit unions business model.

Considerations of applications for waiver of the single borrower concentration limit:

- The creditworthiness of the borrower as evidenced by appropriate underwriting and risk evaluation procedures for the type of credit.
- The quality underwriting for loans previously granted to the specified borrower.
- How effectively the credit union appropriately segregates and monitors performance of loans that previously received waivers.

#### **Other pertinent information**

The review should also include:

- The ability to manage the loan participation program including current performance;
- A review of the previous examination report to determine if weaknesses in participation lending exist.

#### **SSA concurrence (if state-chartered):**

<b>EXAMINERS AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
---

*Examiner's Recommendation:*

*Supervisor Concurrence:*

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

**Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐



Supervision Analyst \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

---

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date\_\_\_\_\_

**Appendix 6-XX**  
**Loan Participation Waiver – Approval**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for a loan participation limitation waiver pursuant to Section 701.22(b)(5)(ii or iv) of the NCUA Rules and Regulations. I authorize your credit union to purchase [enter approval limits]. This waiver extends through [Month XX, 20XX] – *for blanket waivers*.

This approval is contingent upon your credit union's compliance with all other requirements of Part 701 of the NCUA Rules and Regulations as well as the implementation of safe and sound lending practices. This waiver may be terminated at any time upon violation of any law or regulation governing federally insured credit unions, or if lending practices and procedures are deemed unsafe by NCUA.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

**Appendix 6-YY**  
**Loan Participation Letter– Denial**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's request for a loan participation limitation waiver pursuant to Section 701.22(b)(5)(ii or iv) of the NCUA Rules and Regulations. As indicated in your letter, you are requesting to raise the credit union's limit from [enter requested limit and type]. Based on the Month XX, 20XX, financial statements, X percent of net worth is \$XXX,XXX.

A loan participation limit of X places undue risk on the balance sheet in relation to the capital position of the credit union. [Expand on reasons]

Based on the above information and the information presented in your letter dated Month XX, 2001, I deny your request to exceed the limitation of Section 701.22

You may appeal this decision in writing to the NCUA Board. Your appeal must include all information requested in Section 701.22 and why you disagree with the decision. Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## **Chapter 7 – Reviews of Credit Union Service Organizations (CUSOs)**

A CUSO is an organization owned wholly or in part by one or more credit unions to provide services to credit unions, credit union members, or both. Part 712 of NCUA Rules and Regulations establishes requirements for CUSOs including limitations on the amount of investments in or loans to CUSOs an FCU can make. Further, certain sections of Part 712 are applicable to FISCUs.

Part 712, §712.3 (d)(3) requires both FCUs and FISCUs to have a written agreement with their CUSO to provide NCUA with complete access to any books and records, allow NCUA to review internal controls as deemed necessary, and report certain CUSO related information to NCUA.

While this allows for NCUA to review CUSO operations, NCUA does not have direct regulatory authority over CUSOs. However, NCUA and SSAs (under state statutes) periodically perform independent or joint reviews of CUSOs to ensure they are in compliance with regulatory requirements specified in Part 712 and other statutory and regulatory requirements. Reviews are also designed to ensure CUSOs are providing products and services in compliance with statutory and regulatory requirements as well as sound business practices.

This NSPM chapter explains how risks in CUSOs will be identified, the process by which independent CUSO reviews will be planned, scheduled, and staffed, as well as how CUSO review reports will be developed, distributed, and maintained. This chapter does not include CUSO review procedures for examiners conducting a review of a CUSO when part of the normal examination process. Wholly owned CUSOs typically do not need an independent review. This chapter is designed to address the need for independent reviews of larger CUSOs that are owned by and may pose systemic risk to many credit unions

### **1. General Responsibilities Regarding CUSOs**

#### **A. Field Examiners/Specialist Responsibilities**

Field examiners, specialists, and PCOs are responsible for identifying potential risks associated with CUSOs based on information gathered during NCUA onsite contacts, examinations, and insurance reviews. Annually, through their supervisors, examiners, specialists, and PCOs will recommend CUSOs for independent review when they believe a CUSO poses significant risk to credit unions through their operations or the products and services they provide. This is done through the selection process discussed in [Section 2](#). If field staff determines the risks are so pervasive or serious they warrant consideration for scheduling outside the normal annual selection process, staff will immediately make that recommendation to their supervisor.

#### **B. SE/DSA Responsibilities**

SEs and DSAs will coordinate with examiners, specialists, and PCOs to identify CUSOs whose operations may pose potential risk and recommend to regional management an independent CUSO review. SEs and DSAs are responsible for reviewing the yearly CUSO

review recommendations provided by their examiners and specialists. If SEs or DSAs are presented with a case from staff that warrants more immediate attention, they will immediately notify the regional DOS director, ARDP and ARDO.

### **C. Regional Office Responsibilities**

Regional Directors, with input from DOS staff, the ARDP and ARDO, will determine which CUSOs will receive a review in the upcoming year as outlined in [Section 2](#) unless risk factors warrant more immediate scheduling. Decisions will be based on field recommendations, the CUSO's overall risk profile, and the availability of staff resources. The DOS Director is responsible for compiling and distributing the final CUSO review list to SEs and DSAs as well as E&I.

DOS will process CUSO reports and review for quality. DOS staff will be responsible for coordinating report actions with the reviewer in charge (RIC), supervisor, SSAs, and CUSO officials. DOS staff will coordinate report responses with the CUSO, SSAs, and the RIC and is responsible for finalizing and distributing both draft and final reports to internal (regional and central offices) and external parties (CUSO, SSAs, credit union owners/investors). Further, DOS staff will ensure final reports are provided to E&I as outlined in [Section 8](#) of this chapter.

### **D. E&I Responsibilities**

E&I will monitor the national status and trends of CUSOs through data available from established information systems. E&I will use this information, along with CUSO reviews, to evaluate risk mitigation and control and to identify weaknesses in overall CUSO supervision processes. E&I will maintain the SharePoint database of CUSO reviews along with the planned CUSO review list for the current year.

## **2. Selection, Scheduling & Staffing CUSO Reviews**

### **A. CUSO Selection**

Regions will solicit recommendations from the field regarding recommended CUSO reviews not later than October 15<sup>th</sup> of each year. Recommendations should come from examiners, specialists and PCOs through their supervisors.

Not later than October 30<sup>th</sup> of each year, SE's and DSAs will provide the names of CUSOs to the regional DOS Director, ARDP, and ARDO for consideration in the upcoming year's CUSO review schedule.

Regional Directors, with input from DOS staff, ARDP and ARDO, will determine which CUSOs will receive a review in the upcoming year. Consideration will be given to staff recommendations, the CUSO's overall risk profile, and the availability of staff resources. The final selection of CUSOs to receive a review should be based on potential or emerging risks resulting from the services the CUSO provides and the impact to the credit unions they serve. Regions will also consider any wide-ranging regional or national impact.

Not later than November 30<sup>th</sup> of each year, DOS will finalize the list of CUSOs to be reviewed in the upcoming year and distribute this list to SEs and the DSA, with a copy to all RDs, ONES and E&I.

DOS will process CUSO reports and review for quality. DOS staff will be responsible for coordinating report actions with the reviewer in charge (RIC), supervisor, SSAs, and CUSO officials. DOS staff will coordinate report responses with the CUSO, SSAs, and the RIC and is responsible for finalizing and distributing both draft and final reports to internal (regional and central offices) and external parties (CUSO, SSAs, credit union owners/investors). Further, DOS staff will ensure final reports are provided to E&I as outlined in [Section 8](#) of this chapter.

## **B. Scheduling & Staffing**

Normally, the SE for the area where the CUSO's main office is physically located is responsible for scheduling and staffing the review. However, the RD can assign the responsibilities for conducting a CUSO review to DSA based on the severity of the issues, the complexity of the products and services provided, and the systemic risk the CUSO's operation may pose to credit unions regionally or nationwide. In these cases, the DSA will schedule and staff the CUSO review. When reviews are directed under the DSA, the DSA will act as supervisor for RIC and will execute the supervisor responsibilities outlined in this chapter.

Supervisors responsible for a CUSO review may request expertise outside of their group or the region through appropriate channels. This may be an opportunity to bring in SMEs or other specialized resources available in the region or E&I, such as ISOs, or regional lending specialists or RISOs.

## **3. Scope of Review**

When conducting a CUSO review, examiners should consult Chapter 25 of the [Examiner's Guide](#) for review procedures. Generally, the RIC should design the review to determine regulatory compliance, assess the risk to investing or lending credit unions, and assess potential risks to credit unions that use the CUSO's products or services.

NCUA staff conducting CUSO reviews should use the CUSO review scoping documents as outlined in Chapter 25 of the Guide when performing a CUSO review. These documents include both core and specific review elements for conducting a review. The core checklist includes CUSO review steps common to all CUSOs regardless of service type. These review steps are based on requirements outlined in Part 712 of the Rules and Regulations.

Additional review steps are based on the products or services provided by the CUSO (for example, MBL, mortgage loan origination, IS&T, investment services, etc.). These scoping documents are a guide and, as such, reviewers have the flexibility to revise the scope as necessary to effectively address the CUSO's operation.

Some issues identified during a CUSO review may need to be addressed directly with individual investing or lending credit unions. For example, this would be appropriate when credit unions are over the statutory limit for their investments in or loans to the CUSO or if they do not have written

agreements as required by the regulations. When reviewing finalized CUSO reports, DOS will bring all such concerns to the attention of the SE and assigned examiner of the investing or lending credit unions affected.

#### 4. CUSO Review Report & Work Papers

The RIC has flexibility in developing the overall content of the CUSO report. However, the RIC must include six specific documents (as applicable) in the report. These required report documents are:

- Report Cover Page;
- Executive Summary section;
- Findings and Recommended Corrective Actions section (when applicable);
- Loan Exceptions section (when applicable);
- Management Response section; and
- A Confidential section.<sup>54</sup>


The RIC should format the required documents identified above using the templates in the appendices to this chapter. The RIC may include additional documents in the report body as attachments or appendices. Added documents should be formatted similarly to those shown in the appendices to this chapter for consistency.

Upon completion of the CUSO review, the RIC will send a complete CUSO review package to the regional DOS. At a minimum, this package will include:

- The final CUSO review report (with any attachments and appendixes)
- A confidential section

The RIC will ensure the following information is contained somewhere in the final review package.

- Background information of the CUSO;
- List of CUSO officials/senior management (including their backgrounds);
- The CUSO's organizational chart;
- List of credit unions investment in, loans to, and all credit union affiliated with the CUSO;
- Scope of the review (See Examiners Guide, Chapter 25)
- Financial data and trends; and
- A listing of products and services offered by the CUSO.

	An AIRES file will <u>not</u> be uploaded for independent CUSO reviews.
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<sup>54</sup>Not included in the draft or final report to be provided to CUSO officials.

The RIC can exercise individual judgment as to how the above information is included in the final report package. For example, required information could be included in the Executive Summary, the Findings and Recommended Corrective, or the Confidential Section of the report.

The Confidential Section will include information regarding:

- Products and services provided by the CUSO;
- Resolution of unacceptable risk; (as applicable);
- Status of opinion audit;
- Information on legal opinion (when CUSO was formed and any subsequent changes)
- Information regarding any exit meeting or joint conference held with CUSO management or officials;
- Follow-up supervision plans/recommendations;
- Information whether SSA staff was involved in the review and if so, which states were involved;
- A listing of FCU receiving products or services from the CUSO;
- A listing of FISCUs and the state they are located for all FISCUs receiving products or services from the CUSO;
- Any work papers considered material by the EIC;
- Information outlining time used (Code 29) by NCUA staff for the review; and
- Other comments as may be appropriate by the reviewer.

As an alternative to completing information for all above items in the confidential section, the RIC can elect to reference in the confidential section the location of such information already included in other sections of the review report.

## **5. Procedures for Distribution of Draft Review Report**

### **A. Draft Report**

The RIC will forward a draft report to their supervisor (SE or DSA) for review. Upon review and approval, the supervisor will forward the draft report to DOS mail where DOS will log the item with a 14 day review period. The responsible DOS analyst, working with the RIC and the supervisor, will review, edit, and clarify the report as necessary.

Once the draft report has been reviewed by DOS and agreed upon changes have been made, the DOS analyst will send the draft report marked “Draft” to any SSAs that participated in the on-site review. The DOS analyst will use [Appendix 7-B](#) as a template for developing the draft report transmittal letter for the SSA. The transmittal letter establishes a 15 day response date. The letter also indicates if a response is not provided by the SSA within 15 days, NCUA will assume the SSA accepts draft report content as provided. The DOS analyst working with the RIC will revise the draft report based on any SSA responses provided.

Once SSA comments are received and incorporated into the draft report by DOS (or if no SSA participated in the review), the DOS analyst will send a copy of the draft report to CUSO management. The DOS analyst will use [Appendix 7-C](#) as a template for the draft report transmittal letter. This transmittal letter will request CUSO management provide comments



regarding review content and responses to all findings and recommended corrective actions within 15 days of receipt.

## **B. Management Response**

DOS analysts will forward a copy of any CUSO management responses to the draft report on to the RIC. The RIC will review the responses within 10 days of receipt to determine if the responses are sufficient to address all concerns. The RIC, DOS analyst, and SSA staff (if applicable) will coordinate with CUSO management regarding the responses as necessary. Once the RIC and DOS analyst agree on the adequacy of management's responses, the DOS analyst will add management's responses to the appropriate response section of the review report ([Appendix 7A-4](#)). Once the final report is updated with management responses, the DOS analyst will provide a copy of the final report to the RIC and coordinate with the RIC as to whether a management conference will be held with CUSO officials.

## **6. Management Conference**

Once DOS has distributed the final report, the RIC or supervisor may schedule a CUSO management conference with CUSO officials. This conference is not mandatory; however, the decision to hold such a meeting should be based on the level of concern identified during the review. If scheduled, this conference will be held within 30 days of report finalization and issuance by DOS to the CUSO.

If a conference is held, the RIC will review report content, discuss all material concerns, and obtain formal agreement on the responses provided by CUSO management. This conference will normally be held with the CUSO board of managers and/or key management depending on the severity of the issues noted during the review. The SSA will be offered the opportunity to attend the conference meeting as applicable.


After the management conference (if one is held) or after issuance of the final report by DOS, the RIC will compile a final CUSO review package including all related and required review items (e.g. final report, confidential section, etc.). The RIC will upload a complete CUSO review package to DOS not later than 5 days after the management conference or, if no conference is held, within 5 days after issuance of the final report to CUSO officials.

## **7. Procedures for Distribution of Final Review Report**

After the DOS analyst inputs management responses into the final report, the analyst will finalize the report and provide:

- A copy of the final report to CUSO officials. The DOS analyst will prepare a cover letter using [Appendix 7-D](#) as a template for RD signature and provide the cover letter and the final report to CUSO officials;
- A copy of the final report to each federally insured credit union with an investment in or a loan to the CUSO. The DOS analyst will prepare a cover letter using [Appendix 7-E](#) as a template for RD signature and provide the cover letter and the final report to credit union officials;

- A copy of the final review report to all SSA offices that regulate credit unions using CUSO provided products or services. The DOS analyst will prepare a cover letter using [Appendix 7-F](#) as a template for RD signature and provide the cover letter and the final report to each SSA office regulating credit union that use the products and services of the CUSO; and
- Distribute an electronics copy of the final report to regional SEs, DSAs and DEs, the ARDO, the ARDP, and the DOS Director.

	<p>Certain reports may be issued jointly with or through the SSA which will necessitate alteration of these processes and negotiation with the particular SSA. Template letters may need to be amended to include the SSA's logo, signature, and related information as appropriate.</p>
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## 8. Maintenance of CUSO Review Reports

E&I will maintain a CUSO SharePoint site which will serve as the central repository for all agency CUSO reviews. E&I will organize CUSO reviews by EIN numbers and will identify CUSOs by name for ease of reference.

Once regional DOS has finalized and distributed the CUSO report, DOS staff will upload the review in zip file form to the CUSO SharePoint site and send an email to \_E&I Mail and to all other regional DOS mailboxes alerting them to the upload. E&I DOS staff will amend the master EIN/CUSO list if necessary and ensure appropriate links are maintained to actual CUSO files within seven days of upload notification.

To ensure consistency in the upload process, regional DOS will:

- Zip all CUSO review files so that only one file for each separate CUSO review is uploaded to the system.
- Name the zip file as follows: YYYYMM\_EIN (where the YYYYMM is the effective date). For example, a CUSO with an EIN of 987654 and an examination effective date of June 30, 2014, would be named 201406\_987654.zip.

DOS will upload the zip file to the appropriate existing EIN folder or create a new file folder for the CUSO using the CUSO EIN to name the folder if one doesn't already exist. For example, a CUSO with an EIN of 987654 would have a folder identified as 987654 (with no other characters in the name). All reviews of this CUSO will be housed in this folder. It is imperative that EINs are accurate as this is the primary identifier for the CUSO.

## 9. State Supervisory Authority (SSA) Involvement

CUSO reviews may be performed jointly with the SSA. Typically, the agency initiating the review will be in charge of the review. Even if the SSA is not involved with the review, DOS should extend an invitation to the appropriate SSA to attend the management conference (if

scheduled) with CUSO officials. This should only occur when the CUSO has state-chartered credit unions invested in the CUSO, a loan to the CUSO, or is provided products and services by the CUSO. In these cases, DOS should provide a copy of the final review report to the SSA at least 3 business days prior to the scheduled meeting to allow the SSA sufficient time to review the final report.

## **10. Independent SSA CUSO Reviews**

SSAs may conduct CUSO reviews and issue CUSO review reports independently and may provide a copy of the review report directly to NCUA regional offices.

For these independent SSA CUSO review reports, a DOS analyst will also prepare a summary of the report which will outline areas of concern and any conclusions based on the report. The depth and breadth of this review will depend on the nature of the CUSO.

DOS will route their review comments and a copy of the SSA report to the DOS Director, RD, ARDO, and the ARDP for comments. The DOS analyst will ensure the review report and comments are posted to the E&I SharePoint site in the same manner as a review completed by NCUA within 30 days of receipt. In addition the DOS analyst will provide a copy of the final SSA report and summary to regional SEs and DSAs.

**Appendix 7-A1**  
**CUSO - Executive Summary**

**[CUSO NAME]**

**Executive Summary**

Effective Date:

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*The RIC can exercise their discretion as to how the information below can be included in the final report package. However, the list is included here as a reminder if the RIC elects to include such information in the Executive Summary section of the report.*

- *Background information of the CUSO*
- *List of CUSO officials/senior management (including their backgrounds)*
- *CUSO's organizational chart*
- *List of credit unions invested in, loaned to, or affected by the CUSO and their level of involvement*
- *Scope of the review (Also See NCUA Examiner Guide , Chapter 25)*
- *Financial data and trends*
- *List of services offered by the CUSO*

**Appendix 7-A2**

**CUSO - Recommended Corrective Actions**

**[CUSO NAME]**

**Findings and Recommended Corrective Action**

Effective Date:

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<b>Responsible Official and Milestone Date</b>	<b>Finding and Recommended Corrective Action</b>

**Appendix 7-A3****CUSO – Loan Exceptions (If applicable)****[CUSO NAME]****Loan Exceptions****Effective Date:**

<b>Loan Number</b>	<b>Date of Loan</b>	<b>Original Loan Amount</b>	<b>Outstanding Balance</b>
<b>Comments:</b>			

<b>Loan Number</b>	<b>Date of Loan</b>	<b>Original Loan Amount</b>	<b>Outstanding Balance</b>
<b>Comments:</b>			

<b>Loan Number</b>	<b>Date of Loan</b>	<b>Original Loan Amount</b>	<b>Outstanding Balance</b>
<b>Comments:</b>			

<b>Loan Number</b>	<b>Date of Loan</b>	<b>Original Loan Amount</b>	<b>Outstanding Balance</b>
<b>Comments:</b>			

**Appendix 7-A4**  
**CUSO Management Responses**

**[CUSO NAME]**

**Management Responses**

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*Format to be determined by DOS Analyst and RIC.*

**Appendix 7-A5**  
**CUSO – Confidential Section**

**[CUSO NAME]**

**Confidential Section**

Effective Date:

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*The Confidential Section will include comments regarding:*

- *Products and services provided by the CUSO;*
- *Resolution of unacceptable risk; (as applicable);*
- *Status of opinion audit;*
- *Information on legal opinion (when CUSO was formed and any subsequent changes)*
- *Information regarding any exit, management or joint conference held with management or CUSO officials;*
- *Follow-up supervision plans/recommendations;*
- *Information whether SSA staff was involved in the review and if so, which states were involved;*
- *A listing of FCU receiving products or services from the CUSO;*
- *A listing of FISCUs and the State they are located for all FISCUs receiving products or services from the CUSO;*
- *Any work papers considered material by the EIC;*
- *Information outlining work time (Code 29) used by NCUA staff for the review; and*
- *Other comments as may be appropriate by the reviewer.*

As an alternative to completing information for all above items in the confidential section, the RIC can elect to reference in the confidential section the location of such information if already included in other sections of the review report.



**Appendix 7-B**  
**Cover Letter to SSA-Draft Report**

*TO BE PRINTED ON NCUA REGIONAL LETTERHEAD*

Date

John Doe, Commissioner  
SSA  
Address  
City, State Zip Code

Dear Mr. Doe:

Enclosed is a draft report on the review of [CUSO NAME] recently completed by NCUA and your staff with an effective date of [date].

Please review the report and provide any written comments to us by [within 15 days of receipt estimated]. My staff plans to distribute the report shortly after this date to [CUSO NAME]. We will consider your comments when developing the final report. However, if we do not receive a response from you by the specified date, we will assume you agree with the content of the report as drafted.

Thank you in advance as we work together in our mutual interest of maintaining a safe and sound credit union system. If you have any questions, please contact our Division of Supervision at [telephone number].

Sincerely,

Regional Director

*Please follow NCUA communications manual for formatting of initials, charter, enclosure, etc.*

**Appendix 7-C**  
**Draft Report Cover Letter to CUSO**

*TO BE PRINTED ON NCUA LETTERHEAD*

Date

John Doe, Board Chairperson  
ABC CUSO  
Address  
City, State Zip Code

Dear Mr. XXXX:

Enclosed is a **draft** report conducted by National Credit Union Administration's (NCUA) *[and, where applicable, the SSA's name]* of *[CUSO name]*, a Credit Union Service Organization (CUSO). The Reviewer-in-Charge of the review was NCUA DE/PE or Specialist [name]. The effective date of the review is [date].

Please carefully review the enclosed draft report and provide a written response to the issues outlined therein to this office within 15 days for receipt. After receipt and consideration of your response, we plan to provide a copy of the final report, including your response, to the federally insured credit unions with ownership in and loans to (CUSO name).

Thank you in advance for your attention to the issues detailed in the enclosed report. If you have any questions, please contact our Division of Supervision at [phone number].

Sincerely,

Regional Director

*Please follow NCUA communications manual for formatting of initials, charter, enclosure, etc.*

**Appendix 7-D**  
**Final Report Cover Letter to CUSO**

*TO BE PRINTED ON NCUA LETTERHEAD*

To Officials of (*CUSO NAME*):

Attached is our final report summarizing our review of your organization as of [effective date].

This report reflects information we gathered from your records, officers and staff, and other sources we believe reliable. We focused our review on those risk areas we determined posed the greatest risk to your organization, credit unions with funds invested in or loaned to your organization, as well as any client credit unions you may serve.

The Executive Summary contains a general discussion of your operations. The Findings and Recommended Corrective Actions document outlines specific ways to improve areas of concern noted during our contact. Additional support for our conclusions may appear elsewhere in the report. We ask that you act on this report to correct any deficiencies in a timely manner.

This review is not an audit and should not be construed as such. We emphasize that this review does not replace, nor relieve management of its responsibility for making, or providing for, adequate audits of the reviewed organization. Under no circumstances shall any recipient of this report, including directors, officers, or employees, disclose or make public this report or any portion thereof. The law provides penalties for unauthorized disclosure of any of the contents of this report. If a subpoena or other legal process is received calling for the production of this report, the National Credit Union Administration must be notified immediately.

If you disagree with this report, you may request a review by writing to the regional director at the letterhead address within 30 days of receiving your final report.

Sincerely,

Regional Director

*Please follow NCUA communications manual for formatting of initials, charter, enclosure, etc.*

**Appendix 7-E**  
**CUSO Cover Letter Report to Investors and Lenders**

*TO BE PRINTED ON NCUA LETTERHEAD*

Date

Board of Directors  
XYZ Credit Union  
Address  
City, State Zip Code

Dear Board Members:

The National Credit Union Administration, with assistance of various state credit union regulators, periodically conducts on-site reviews at Credit Union Service Organizations (CUSOs). Enclosed is the report for [CUSO Name] performed by the National Credit Union Administration. A copy of the entire report is being provided to all federally insured credit union investors of record and lenders to the CUSO as of [date], the effective date of the review.

As part of your due diligence over the CUSO, please take the time to review the report with your senior management staff and discuss the findings with the CUSO as needed. Keep in mind this report represents a review as of the dates of the on-site contact at the CUSO. Review of this report does not alleviate your responsibility to complete periodic safety and soundness reviews and additional due diligence.

In an effort to present you with a balanced perspective, we are including a copy of the CUSO's response to our report.

This report is the property of the National Credit Union Administration. Under no circumstances shall any recipient of this report make public this report or any portion thereof. The law provides penalties for unauthorized disclosure of any of the contents of this report. If a subpoena or other legal process is received calling for the production of this report, the National Credit Union Administration must be notified immediately.

Should you have any comments or questions about this letter, please contact this NCUA Regional office at [TELEPHONE NUMBER].

Sincerely,

Regional Director

*Please follow NCUA communications manual for formatting of initials, charter, enclosure, etc.*

**Appendix 7-F**  
**Final Report Cover Letter to SSA**

*TO BE PRINTED ON NCUA LETTERHEAD*

Date

John Doe, Commissioner  
SSA  
Address  
City, State Zip Code

Dear Mr. Doe:

Enclosed is a final report on the review of [CUSO NAME] recently completed by NCUA (OR jointly completed by NCUA and your staff) with an effective review date of XXXX, XX, 20XX.

Thank you as we work together in our mutual interest of maintaining a safe and sound credit union system. If you have any questions, please contact our Division of Supervision at [telephone number].

Sincerely,

Regional Director

*Please follow NCUA communications manual for formatting of initials, charter, enclosure, etc.*

## Chapter 8 – Office of Small Credit Union Initiatives (OSCUI) Consulting

In December 2004, the NCUA Board created OSCUI to focus on providing guidance, assistance, and information on development opportunities to small, new, and low-income designated credit unions nationwide. OSCUI's goal is to ensure the long-term viability and growth of these credit unions through four primary programs --- training, partnerships and outreach, grants and loans, and consulting services:

1. OSCUI delivers training to credit union staff and officials at in-person workshops, roundtables, and bootcamps, or via videos and webinars.
2. OSCUI fosters partnerships and outreach opportunities between credit unions, governmental entities, community-based organizations, and the credit union industry to help identify external programs and services that help credit unions meet their members' needs.
3. Financial Assistance in the form of grants and loans is available to low-income designated credit unions from NCUA's Community Development Revolving Loan Fund (CDRLF) administered by OSCUI and funded by Congress.
4. OSCUI's staff of Economic Development Specialists (EDS) provides operational and strategic management consulting services to small credit unions enrolled in the Consulting Program.

After consultation with their SE, examiners may contact OSCUI at [oscuimail@ncua.gov](mailto:oscuimail@ncua.gov) for additional information on training, partnership and outreach programs, and loans and grants. [Appendices 8-A](#) and [8-B](#) provide templates for examiners when responding to OSCUI for information related to grant and loan requests. The remainder of this chapter focuses on OSCUI's consulting services.

### 1. Credit Unions Eligible for the OSCUI Consulting Program

OSCUI's Consulting Program provides individualized training and assistance to credit unions on a variety of operational and strategic management issues. [NCUA Instruction 6054 \(Rev. 2\)](#) establishes guidelines for the OSCUI Consulting Program. Consulting services are available to the following federal and federally insured state-chartered credit unions:

- Small credit unions as defined by Interpretive Ruling and Policy Statement 12-2
- Low income designated credit unions
- Newly chartered credit unions in operation less than 10 years
- Credit unions with less than \$10 million in assets requesting assistance with drafting a net worth restoration plan (NWRP).

Additionally, OSCUI provides consulting services to credit union organizing groups with preliminary field of membership approval from NCUA. EDSs will guide the organizing group through developing their business plans, and completing the chartering application.

## **2. Key Consulting Services Available**

Key consulting services EDSs provide to credit unions enrolled in the OSCUI Consulting Program include but are not limited to providing onsite or offsite training and guidance in the following areas:

- Budgeting
- Consumer Compliance
- FOM Expansion/Capturing New Markets
- Grants
- Internal Controls
- Marketing Strategies
- Merger Guidance
- New Product and Service Development
- Recordkeeping
- Secondary Capital
- Strategic Planning

§702.206(b) of the [NCUA Rules and Regulations](#) specifically provides for NCUA assistance to credit unions with less than \$10 million in assets required to develop a NWRP. Also, §702.307 provides for assistance to “new” credit unions (in operation less than 10 years) with developing a revised business plan (RBP). OSCUI EDSs provide this assistance.

## **3. OSCUI Consulting Program Enrollment Process**

### **A. Standard Enrollment Process**

OSCUI relies on a nomination process for enrollment in the Consulting Program. Nominations can be made by NCUA staff, state regulators, or directly by the credit union (self-nomination) using the OSCUI Consulting Nomination Form at: [www.ncua.gov/OSCUI/ConsultingForm](http://www.ncua.gov/OSCUI/ConsultingForm)

The Consulting Program runs on a semiannual schedule. Nomination forms received by November 30 are considered for the January – June consulting cycle; forms received by May 31 are considered for the July – December consulting cycle.

Enrollment is based on available resources and priority ranking. OSCUI will focus its consulting efforts on credit unions that will benefit from the effort. Credit unions that have sufficient resources to pay for consultants and those credit unions that are unsustainable will not be enrolled.

Credit unions not selected for the Consulting Program are eligible to reapply for future consulting cycles.

All nominated credit unions will be notified by OSCUI of their enrollment status via email. Credit unions accepted for enrollment in the Consulting Program will be notified of the enrollment status as follows:

- OSCUI sends notification emails within 5 days to the examiner, supervisory examiner, regional DOS and EDS, providing the name of the EDS assigned to each enrolled credit union.
- The assigned EDS will contact each enrolled credit union within the first 10 business days of the six-month service period (January or July).

Further details regarding the enrollment and selection processes are outlined in [NCUA Instruction 6054 \(Rev 1\)](#) and on the OSCUI Consulting Nomination form.

## **B. Non-Competitive Enrollment Process**

There are a few exceptions to the standard enrollment process. In these specific situations enrollment is non-competitive:

- NWRP assistance requests from credit unions with less than \$10 million in assets;
- Urgent need requests. An urgent need is defined as an unanticipated event such as a natural disaster, loss of key staff or loss of sponsor support. This does not include a drop in CAMEL ratings;
- Requests to assist new charter organizing groups which have an Office of Consumer Protection (OCP) approved field of membership; and
- Credit unions chartered in the past three years.

Nominations for non-competitive enrollment are made using the same referenced OSCUI Consulting Nomination form.

OSCUI may contact regions and OCP to determine the viability of the non-competitive nominee. Credit unions accepted on a non-competitive basis will be notified of their enrollment status by the EDS.

## **4. Field Staff, Regional Office and OSCUI Responsibilities**

OSCUI relies on teamwork from other NCUA staff to effectively assist credit unions enrolled in the Consulting Program. NCUA staff responsibilities are outlined below:

### **A. Examiner Responsibilities**

- Determine which credit unions would benefit from EDS assistance, and consider referring for program enrollment;
- Contact their supervisor for approval to nominate a credit union for consulting services before completing the OSCUI Consulting Nomination Form.
- Complete the nomination form by:



- Providing detailed comments on the type of assistance needed.
  - Stating the specific timeframe for completion if the request includes NWRP assistance.
  - Including timeframes for completion as stated in the DOR if the request includes assistance relating to DOR items.
- The assigned EDS will contact the examiner prior to working with the credit union. Once the EDS contacts the examiner, the examiner will share a clear understanding of the issues and discuss outstanding DOR items, Examiner's Findings, etc., with the EDS
- Inform the DOS in the Regional Summary when an EDS assisted in developing the NWRP or RBP.
- Provide feedback to OSCUI via the e-survey attached to each SYSAires notification (as applicable). The purpose of the survey is to help assess the effectiveness of and evaluate potential changes to the Consulting Program.

## **B. Supervisor Responsibilities**

- Discuss and recommend either approval or denial of Consulting Program nominations made by their examiners.
- Provide feedback to OSCUI via the e-survey attached to each SYSAires notification (as applicable).

## **C. DOS Responsibilities**

- Review incoming Consulting Nomination forms and participate in semiannual enrollment discussions with OSCUI.
- Notify respective field staff of nominated credit unions not selected for enrollment during the semiannual review.
- Copy the Director of OSCUI on any outgoing NWRP and RBP approval or denials in which an EDS assisted.
- When applicable, provide feedback to OSCUI via the e-survey attached to each SYSAires notification (e-survey results are displayed on NCUA Central under Applications).

## **D. OSCUI Responsibilities**

- Prioritize EDS requests (priority will be given to NWRPs, emergency requests and new charter organizers)
- Assign an EDS upon enrollment of the credit union into the Consulting Program.

- Communicate normal approval of requests/enrollment during the first five business days of July and January to the Regional OSCUI Liaison(s).

#### **E. EDS Responsibilities**

- Contact the district examiner within 30 days of enrollment, and then 10 business days prior to actually starting work to establish communication and begin dialogue of issues involved in the request.
- Discuss relevant DOR items, Examiner's Findings, etc. with the examiner.
- Provide the examiner with a draft of the NWRP (if applicable) and request feedback prior to completing the contact.
- Complete a written Contact Report and upload it in AIRES.
- Recommend releasing the credit union from the Consulting Program once the requested work is completed.

#### **5. OSCUI Consulting Program Contact Reports**

To document the consulting work done at the credit union the EDS will complete a written Contact Report and upload it via AIRES. The Contact Report will include a narrative identifying the scope of the contact, the assistance provided, and follow-up recommendations for field staff.

#### **6. Removal from Consulting Program**

Credit unions are automatically removed from the Consulting Program when the assignment is complete or the end of the assigned consulting cycle, whichever comes first.

Credit unions that are uncooperative or no longer desire EDS assistance will be removed from the program once the appropriate regional DOS has been notified. This action does not prevent the credit union from future participation in the OSCUI Consulting Program when circumstances change.

**Appendix 8-A**  
**OSCUI Loan Request – Regional Summary**

<b>REGIONAL SUMMARY</b> <b>OSCUI Loan Application and Plan</b>	
<b>Charter Number</b>	
<b>Credit Union Name</b>	
<b>Supervisor Name/Examiner Name</b>	
<b>CAMEL Code/Effective Date of CAMEL</b>	
<b>Financial Data Date</b>	
<b>Total Assets</b>	
<b>Current Net Worth Ratio</b>	
<b>Proposed Net Worth Ratio</b>	
<b>Total Loan to Asset Ratio</b>	
<b>Proposed Loan to Asset Ratio</b>	
<b>Proposed Loan Amount</b>	

**General FOM Description:**

**Reason for Request and Strategy for Funds Received:**

**At a minimum, examiner must consider the following when evaluating a request:**  
**(These OSCUI provided questions might be different for each request)**

- 1. Is the credit union manager capable of effectively managing the project that the loan funds will be utilized for?**  
☐
- 2. Are there any pending examination concerns that the credit union should resolve prior to receiving approval for the loan?**  
☐
- 3. Any concerns regarding the long-term viability of the credit union?**  
☐
- 4. This is a balloon note that is payable at the end of the term (fifth year). Are you aware of any issues that may prevent the credit union from paying off the loan at the fifth year?**  
☐
- 5. Any concerns regarding the proposed usage of the loan funds?**  
☐
- 6. Do you concur with the approval of this loan?**

○

**Balance sheet and income statement projections and assumptions**

(Consider the impact the loan will have on liquidity, income, and net worth.)

**Other pertinent information**

(Consider the appropriateness of the loan. Discuss any negative trends or concerns noted at previous examinations.)

<b>EXAMINERS AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
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*Examiner's Recommendation:*

*SE/DSA Concurrence:*

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

**Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date \_\_\_\_\_

**Appendix 8-B**  
**OSCUI Loan Request Response Memo**

**SENT VIA EMAIL**

[Office]/XXX:XX  
FCU XXXXX – XX

**TO:** Director William Myers  
Office of Small Credit Union Initiatives (OSCUI)

**FROM:** Regional Director [ ]  
Region [X]

**SUBJ:** OSCUI Loan Program – (CU NAME)

**DATE:** [insert current date]

Below is our input that you requested for the loan application of XX Credit Union.

(OSCUI provided question might be different on each request)

1. Is the credit union manager capable of effectively managing the project that the loan funds will be utilized for?
2. Are there any pending examination concerns that the credit union should resolve prior to receiving approval for the loan?
3. Any concerns regarding the long-term viability of the credit union?
4. This is a balloon note that is payable at the end of the term (fifth year). Are you aware of any issues that may prevent the credit union from paying off the loan at the fifth year?
5. Any concerns regarding the proposed usage of the loan funds?
6. Do you concur with the approval of this loan?  
(YES/NO)

If you have any questions, please contact Supervisory Examiner XX, Examiner XX or Supervision Analyst XX through this office.

cc: ARDP/ARDO  
SE/DSA  
EX/PCO

bcc: FCU XXXXX  
SA [insert name]  
Reading

## Chapter 9 – Bank Secrecy Act (BSA) Enforcement

This chapter is designed to equip examiners with information regarding their role in enforcing BSA in credit unions. The objective of this chapter is to set forth a framework for a high quality BSA examination program in an effort to mitigate credit unions' compliance risk and ensure federally-insured credit unions comply with all applicable regulations.

### 1. Suspicious Activity Report (SARs)

#### A. When to File a SAR

Credit unions are required by federal regulations to file a SAR with respect to:

- Criminal violations involving insider abuse in any amount.
- Criminal violations aggregating \$5,000 or more when a suspect can be identified.
- Criminal violations aggregating \$25,000 or more regardless of potential suspect.
- Transactions conducted or attempted by, at, or through the credit union and aggregating \$5,000 or more, if the credit union knows, suspects, or has reason to suspect that the transaction:
  - May involve potential money laundering or other illegal activity (e.g. terrorism financing);
  - Is designed to evade the BSA or its implementing regulations; or
  - Has no business or apparent lawful purpose or it not the type of transaction that the particular member would normally be expected to engage in, and the credit union knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

#### B. SAR Filing Information

Credit unions must file all SARs electronically through the Financial Crimes Enforcement Network (FinCEN) BSA E-Filing website at: <http://bsaefiling.fincen.tras.gov/main.html>.

The SAR rules require that a SAR be filed no later than 30 calendar days from the date of the initial detection of facts that may constitute a basis for filing a SAR. For situations requiring immediate attention, the credit union should immediately notify the appropriate law enforcement authority in addition to filing a timely SAR. If the credit union suspects that a transaction may be linked to terrorist activity, the credit union should immediately call the FinCEN Financial Institutions Hotline at (800) 556-3974.

Examiners: will review SAR filing processes during examination/supervision contacts and focus their review on the credit union's' process for detecting suspicious activity. Examiners will also review newly filed SARs for appropriateness and compliance with FinCEN's regulation. Should the officials fail to act, examiners will notify their supervisor. The supervisor will notify the ARDP who will consult with OGC regarding appropriate administrative action.

Supervisors and Regional DOS: will monitor significant SAR filings quarterly to determine if additional or enhanced supervision is required.

E&I: will periodically review significant SAR filings to identify potential national risk trends.

## **2. Requesting Currency Transaction Reports (CTRs), Suspicious Activity Report (SARs), and Designation of Exempt Persons (DOEPs) Histories**

Examiners can request a listing of the CTRs, SARs, and DOEPs filed by a credit union by sending an e-mail to their regional DOS mailbox with the full name, address, and Employer Identification Number (EIN) of the credit union. When requesting a download from DOS, examiners should include a specific timeframe for the request (e.g. January 1, 2011 - October 1, 2011).

Examiners may obtain the listing of CTRs, DOEPs, and SARs filed by a credit union, prior to starting an examination as a scoping tool for the BSA review.<sup>55</sup> A change in filings (decrease or increase) could be an indicator of a problem and may require attention during the examination. The information may be sorted in various ways to enable examiners to identify trends of certain customers or accounts, which could warrant further review during the examination.

Examiners should also verify that the credit union has actually filed CTRs or SARs with the appropriate agency, particularly when there is insider activity.



The FinCEN worksheet may not be shared with the credit union due to the confidentiality requirements noted in the regulation.

## **3. BSA Enforcement**

When examiners identify material BSA program deficiencies and/or compliance violations, targeted enforcement will be implemented to resolve supervisory concerns timely. In implementing enforcement action, examiners will:

- Attempt to have the credit union resolve deficiencies during the examination process;
- Document the review using the AIRES BSA questionnaire, examination scope, and supporting work papers as needed;

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<sup>55</sup> SARs are confidential. Any credit union, including its officials, employees, and agents are prohibited from disclosing a SAR or the information in a SAR, or providing any information that would disclose that a SAR was prepared or filed, except when such disclosure is requested by FinCEN or an appropriate law enforcement or federal banking agency. Such reports, or the fact they have been filed, may not be disclosed by a government employee to any person involved in the transaction, “other than as necessary to fulfill the official duties of such officer or employee.” 31 U.S.C. 5318 (g)(2)(ii). Unauthorized release of information collected under the BSA may result in criminal or civil sanctions.

- Identify, track, and resolve significant BSA violations - this includes issuing a PWL or similar administrative action as necessary;
- Complete the CCV Module with the appropriate citation if applicable (report all significant BSA violations as Regulation code BSA-S);
- Discuss BSA violations in the open section of the report;
- Prepare a DOR, if applicable;
- Indicate the appropriate level of compliance and other risks in the Scope Module;
- Ensure the adequacy of the credit union's BSA program is considered when assessing and rating management;
- Follow-up with the credit union to achieve resolution of significant BSA violations within 90 days of the examination completion date (or 150 days for a structured resolution like independent testing);
- Complete the FinCEN.doc form within AIRES when a significant BSA violation involves a data quality violation or a BSA-related administrative action is in place for a FCU;
- Document resolution of BSA violations through the CCV Module; and
- Report discovery of money laundering activities or other high profile BSA violations to DOS through their supervisor.



Your primary resource is the FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual.  
[http://www.ffiec.gov/bsa\\_aml\\_infobase/pages\\_manual/manual\\_online.htm](http://www.ffiec.gov/bsa_aml_infobase/pages_manual/manual_online.htm)

## 4. BSA Violations

### A. AIRES Consumer Compliance Violations (CCV) Module<sup>56</sup>


As mentioned above, examiners must complete the CCV Module in AIRES for the BSA violations that have been identified during the examination/supervision contact. In completing the CCV Module, examiners should:

1. Combine multiple violations of the same regulation into a single citation within the CCV Module.

<sup>56</sup> For examinations of corporate credit unions, ONES examiners will include BSA violations in examinations reports as examiner findings or documents of resolution, as appropriate using the general guidelines in this chapter. ONES will manually report corporate BSA violations to E&I each month using an approved spreadsheet.



2. Utilize the CFR citation over the equivalent NCUA regulatory citation wherever possible.
3. Identify all significant BSA violations as “BSA-S” in the Regulation code column.
4. Use the verbiage in the BSA citations in [Appendix 9-A](#). Examiners should keep their comments brief and exclude any confidential information such as names or account numbers - the information examiners enter in the CCV Module is reported outside of NCUA.
5. Identify the management response taken using the drop-down menu within the CCV Module. These responses within the CCV Module play a critical role in the Regional Office tracking of resolved BSA-S violations.

	<p>Compliance violations documented during prior examinations (resolved and unresolved) will flow into the current examination on the CCV Module and will be summarized in the EMC.</p> <p>Because the CCV Module is NCUA’s primary means of collecting and reporting data to FinCEN, the Government Accountability Office (GAO), Congress, etc., <u>it is critical examiners complete the CCV Module accurately.</u></p>
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## B. Significant BSA Violations

Significant BSA violations require a:

- Document of Resolution
  - If the credit union corrects the significant violation during the examination, the DOR can be marked as corrected
- Compliance risk rating of “high” unless the credit union fully corrects all the BSA violations during the course of the examination and the examiner is sure the problems will not recur (reputation or other risk areas may also be affected).

Examiners should use their own judgment in citing the credit union for non-significant BSA violations.

[Appendix 9-A](#) is a spreadsheet listing AIRES BSA citations with guidance to identify significant violations that must be labeled as BSA-S. Additionally, examiners can use this list to identify data quality violations subject to additional reporting requirements, including FinCEN.doc examination excerpts.

## C. Data Quality Violations

A “data quality” violation involves the failure to collect or report information to FinCEN through a SAR or CTR. Not filing any quantity of CTRs remains significant and may

qualify as a systemic or pervasive violation. However, un-filed CTRs are only classified as a data quality violation when more than 25 percent are not filed.

To be classified as a data quality violation, one of the following criteria must be met:

- One or more SARs were needed, but not submitted/filed by the credit union; or
- Un-filed CTRs equal 25 percent or more of the total CTRs filed during the period reviewed by the examiner.

A BSA report excerpt must always be completed for a data quality violation (see AIRES FinCEN.doc section below). If the number of un-filed CTRs is not determined during the examination, the un-filed CTRs must be treated as a significant data quality violation.

## **5. AIRES FinCEN.doc**

Examiners must include an examination excerpt (using the FinCEN.doc template) in the Examination Directory for all federal credit unions whenever:

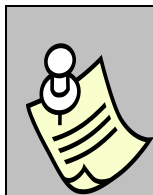
- A “data quality” violation is identified.
- Formal action is taken for BSA non-compliance.

The goal of the FinCEN.doc is to compile all BSA-related discussions given to credit union management into one document for FinCEN’s review.

## **6. Completing the FinCEN.doc**

In the AIRES Examination Directory Explorer:

- Move the FinCEN.doc from the Available Template Files to the Examination Directory.
- Copy and paste the applicable sections from various Word documents in AIRES wherever BSA is discussed – the Examination Overview, DOR, Examiner’s Findings, etc. into the FinCEN.doc.



Do not rename the FinCEN.doc or prepare additional FinCEN documents within AIRES. Do not use the AIRES “Minimal Contact” feature, as it will strip the document from the upload. Do not include the AIRES BSA questionnaire or credit union policies in the FinCEN.doc.


## **7. Resolution of Significant BSA Violations**

### **A. FCUs**


Per [NCUA Instruction No. 5001.06 \(Rev. 1\)](#), examiners must ensure all significant violations at federal credit unions are resolved **within 90 or fewer days** from the examination or contact completion date (upload date).

Examiners may allow up to 150 days for final resolution for independent testing if the credit union demonstrates adequate progress within 90 days from the examination or contact completion date. However, examiners should not wait until the end of the maximum resolution timeframe to determine whether a credit union is making adequate progress toward resolution.

DOS provides supervisors a report of outstanding BSA violations each quarter. For significant BSA violations outstanding an unreasonable length of time, supervisors should follow-up with examiners to assess the status of corrective action.

	Each credit union with significant violations must have at least one AIRES file uploaded within the 90 or 150-day timeframe to identify corrections.
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If inadequate corrective action is noted, escalation of administrative action is required by the NCUA examiner. Staff should refer to the "Failure to take adequate corrective action" section in [NCUA Instruction 5001.06 \(Rev. 1\)](#). For example, when credit union compliance with the DOR is inadequate, a PWL or other administrative action must be issued to achieve resolution within 180 days or less from the first date of identification.

	To meet the above objectives, examiners need to perform a follow-up contact <u>within 75 days</u> from the examination or contact completion date to assess progress. Such planning will allow sufficient time to draft and process any pending administrative action if necessary.
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Based on the severity of the violation, the timeframes for administrative action can be accelerated. §206 of the [Federal Credit Union Act](#) contains a list of applicable administrative actions.

On rare occasions, external or uncontrollable events (such as a flood or the resignation of key officials) may delay compliance with written agreements concerning significant BSA violations. Supervisors may request an exception to the progression of administrative action from the RD. Examiners must prepare a memo supporting their request to their supervisor. The memo needs to contain the following information:

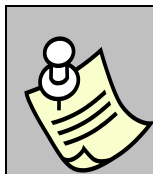
- Identifying information (including initial identification date of significant BSA violation);
- Timeline for supervision and resolution; and
- The reason for recommending an alternate approach.

No exception approved by the Regional Director may delay the progress of administrative action for more than 90 days after the completion dates presented under the "Failure to take adequate corrective action" section in [NCUA Instruction No 5001.6 \(Rev. 1\)](#), unless concurrence is received from E&I.

## B. FISCUs

SSAs conduct BSA examinations at FISCUs. Regional Directors may reach agreements with SSAs for NCUA examiners to conduct the BSA examination at FISCUs. These agreements will vary based upon the SSA.

NCUA collects information about BSA violations in state charters through the CCV Module and reports to FinCEN along with BSA violations data on federal charters. If the SSA noted BSA violations but did not complete the CCV, the NCUA examiner must input the information during their WCC 26 review.



The 90-day correction timeline outlined in [NCUA Instruction No. 5001.06 \(Rev. 1\)](#), dated May 10, 2005 is not binding for state charters; however, maintaining an adequate BSA program is a condition of federal insurance and we expect SSAs to adequately and promptly deal with significant violations.

NCUA has the enforcement authority for FISCUs examined<sup>57</sup> by NCUA (SSA has authority to review). During joint examinations, NCUA examiners can allow the SSA to review BSA, but the NCUA examiner must review the SSA's work for sufficiency. If the review performed by the SSA is insufficient, the NCUA examiner should amend the review. The NCUA examiner must also ensure:

- The CCV Module includes the appropriate regulation for BSA violations;
- The required BSA questionnaires are completed; and
- The CCV Module and BSA questionnaires are included in the NCUA WCC 11 or WCC 23 examination upload.

If a state report lacks adequate agreements for corrective action or the SSA is not adequately resolving the issue(s), examiners will recommend the supervisor (or Regional Director) communicate with the state, take appropriate action, and document the outcome in a memo to DOS. For significant BSA violations outstanding an unreasonable length of time, supervisors should follow up with the respective SSA to assess the status of corrective action. In rare instances, examiners may need to contact the credit union

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<sup>57</sup> The term "examined" refers specifically to WCC 11s. If during another type of contact, an NCUA examiner identifies unresolved BSA concerns or concerns not identified by the SSA, examiners should expand the scope of the review to include BSA and follow up to ensure BSA resolution.

directly to assess resolution status. As a last resort, examiners should discuss with their supervisor as to whether formal correspondence to the SSA is required.

## **8. Reporting the Resolution of BSA Violations**

Examiners must supervise the credit union's progress to ensure timely resolution of significant BSA violations. Resolution encompasses the correction of the noted BSA violation(s) and the implementation of adequate controls to mitigate the potential for similar violations. When significant BSA violations have been adequately corrected, examiners must upload an AIRES file with the CCV Module properly completed.

## **9. BSA Control Reports**

Control reports serve as a mechanism to ensure the agency has a robust examination program that is properly resourced and monitored for adherence to national examination and quality standards.

### **A. Regional BSA Control Reports**

Regional Directors are responsible for measuring and monitoring the BSA examination program for quality and completeness, as well as adherence to established standards. The regions are responsible for reviewing and ensuring BSA violations are cited appropriately and correctly. At a minimum, the regions will be responsible for maintaining and reporting the following:

- Monthly report to E&I of all Significant BSA violations with associated resolution dates cited in FICUs.
- Log of all BSA violations outstanding for more than 90 days with status reported to E&I quarterly.
- Monthly report to E&I of all administrative actions taken relating to BSA violations.
- Quarterly responses to E&I regarding the accuracy of BSA violations cited (when applicable).

### **B. E&I BSA Control Reports**

E&I is responsible for monitoring the national status and trends based on monthly and quarterly regional reports. E&I will compile this information into reports provided to the FinCEN. E&I is also responsible for establishing interagency examination procedures, evaluating the overall quality of the BSA examination program, collecting information on emerging risks, resources and program quality, and monitoring overall national trends to ensure a high quality BSA examination program. E&I will run reports to evaluate the status of the national examination program, evaluate adherence to national standards, and provide reports to FinCEN including:

- BSA violations cited
- Unresolved BSA violations

- Accuracy of BSA violations cited
- Administrative Actions taken regarding BSA issues

**Appendix 9-A**  
**BSA Citations**

<b>CITATION</b>	<b>BSA, BSA-S or EXJ*</b>	<b>Data Quality (DQ)</b>	<b>BRIEF DESCRIPTION</b>
<b>Overall Compliance Program</b>			
748.2b1	BSA-S		Written and approved BSA policy covering all required areas
748.2c1	BSA-S		Provide for an adequate system of internal controls (includes systems to detect suspicious activity)
748.2c2	BSA-S		Conduct of independent testing
748.2c3	BSA-S		Individual responsible for coordinating and monitoring compliance
748.2c4	BSA-S		Training for appropriate personnel
<b>Suspicious Activity Reports</b>			
1020.320	BSA-S	DQ	Must report suspicious activity on SAR
1020.320(a)	BSA-S	DQ	SAR not completed properly
1020.320(b)(3)	BSA-S	DQ	SAR not filed within time period
1020.320(d)	EXJ		SAR copy and/or attachments not maintained
1020.320(e)	BSA-S		SAR must be kept confidential
<b>CTRs, CMIRs (Currency of Monetary Instrument Report), FBARs</b>			
1010.311	BSA-S	DQ	CTR not completed for cash transaction
1010.313(b)	EXJ		CTR not filed on multiple transactions
1020.315(c)	BSA-S	DQ	Exempt person or bank not properly designated
1020.315(d)	EXJ		Annual review of designated party for CTR exemption
1010.340(a)	BSA-S	DQ	CMIR not filed for currency or monetary instruments into or out of US > \$10,000
1010.340(b)	BSA-S	DQ	CMIR not filed for currency or monetary instruments received from outside to US > \$10,000
1010.350	BSA-S		No report of interest in foreign financial account (FBAR)
1010.370	BSA-S		Complete additional reporting required by order of Treasury
1010.306(a)(1)	BSA-S	DQ	CTR not filed within 15 days of transaction
1010.306(a)(2)	EXJ		CTR not maintained for 5 years
1010.306(d)	BSA-S		CTR, CMIR, FBAR not completed properly
1010.312	BSA-S		Identity of customer was not verified as part of SAR, CTR completion
<b>Monetary Instruments</b>			
1010.415(a)	EXJ		Required information is not obtained on currency purchases of monetary instruments between \$3,000 and \$10,000.
1010.415(b)	BSA-S		Multiple currency purchase of monetary instruments totaling over \$3,000 are not aggregated

1010.415(c)	EXJ		Required information on currency purchases of monetary instruments between \$3,000 and \$10,000 not maintained for 5 years.
1010.420	EXJ		Retain FBAR records for 5 years
<b>Records to be Maintained</b>			
1010.410(a)	BSA-S		Required information is not maintained on extensions of credit exceeding \$10,000
1020.410(a)(1)	BSA-S		Required member information is not maintained on funds transfers greater than \$3,000.
1020.410(a)(2)	BSA-S		Required nonmember information is not maintained on funds transfers greater than \$3,000.
1020.410(a)(4)	BSA-S		Required information on funds transfers is not retrievable by both name and account number
1020.410(c)(1)	BSA-S		No record of signature card and notation of identifying information
1020.410(c)(2)	EXJ		No record of statements or ledger cards showing all transactions to accounts
1020.410(c)(3)	EXJ		No record of checks, clean drafts, or money orders drawn on the banks or issued and paid by it (except for those exempted accounts)
1020.410(c)(4)	EXJ		No record of debits to accounts exceeding \$100 not otherwise exempted
1020.410(c)(5)	BSA-S		No record of items greater than \$10,000 remitted or transferred to any person, account or place outside the US.
1020.410(c)(6)	BSA-S		No record of remittances or transfers of funds or of currency or monetary instruments greater than \$10,000 to a person, account or place outside the US
1020.410(c)(7)	BSA-S		No record of foreign checks or drafts over \$10,000
1020.410(c)(8)	BSA-S		No record of items received directly from a foreign bank, broker, or foreign exchange dealer
1020.410(c)(9)	BSA-S		No record of currency or monetary instrument, etc. received directly from a foreign bank, broker, or dealer in foreign exchange
1020.410(c)(10)	EXJ		Unable to reconstruct a demand deposit account and trace a check greater than \$100 deposited therein
1020.410(c)(11)	EXJ		No record of name, address, and TIN for all CD purchasers, as well as a description of the CD and method of payment
1020.410(c)(12)	EXJ		No record of name, address, and TIN for all persons presenting CDs for redemption, plus description of CD and date of transaction
1020.410(c)(13)	EXJ		No record of each deposit slip greater than \$100 showing the amount of currency involved.
<b>Record Retention Periods</b>			
1010.430(a)	EXJ		Copy or reproduce both front and back of documents



1010.430(d)	EXJ		Retain records for 5 years in such a way as to be reasonably retrievable.
<b>Information Sharing</b>			
1010.520(b)(2)(iii)	BSA-S		FinCEN point of contact not designated
1010.520(b)(2)(ii)	BSA-S		Search not completed or matches reported within 14 days
<b>CIP</b>			
1020.220(a)(1)	BSA-S		No written Customer Identification Program
1020.(b)(2)	BSA-S		CIP does not include risk-based procedures to form reasonable belief of customer's identity

\* Citations may be designated as BSA or BSA-S, depending upon the nature of the violation. Examiners should refer to the Significant BSA violations definition in [NCUA Instruction 5001.06 Bank Secrecy Act Compliance](#) for further clarification.

**Appendix 9-B**  
**BSA References**

[FFIEC BSA Anti-Money Laundering Examination Manual](#)

[FinCEN](#)

[FinCEN Ruling 2005-6 – Suspicious Activity Reporting \(Structuring\)](#)

[NCUA Instruction 5001.06 \(Rev. 1\)](#) (dated May 10, 2005)

[NCUA Instruction No. 12400.05](#) Processing Complaints Against Credit Unions and Documenting Compliance Violations (dated April 23, 2004)

[NCUA web site](#) regarding BSA

[Chapter 18](#) and Appendix 18A of the [Examiner's Guide](#)

[Interagency Statement on Enforcement](#)

[FinCen MOU](#)

## Chapter 10 – Prompt Corrective Action (PCA)

Prompt Corrective Action is designed to restore and improve the net worth of federally-insured credit unions (FICUs). When a credit is subject to PCA, the district examiner will monitor compliance to all applicable provisions of PCA contained in Part 702 of [NCUA Rules and Regulations](#). This chapter establishes national policy and guidelines NCUA staff will follow when completing PCA related work assignments and examination/supervision of PCA related issues.<sup>58</sup>

### 1. Category Classifications<sup>59</sup>

Net Worth Category Classification for Credit Unions NOT Classified as “New” under PCA <sup>60</sup>	
Well Capitalized	7% or above
Adequately Capitalized	6% to 6.99%
Undercapitalized	4% to 5.99%
Significantly Undercapitalized	2% to 3.99%
Critically Undercapitalized	< 2%

Net Worth Category Classification for New Credit Unions	
Well Capitalized	7% or above
Adequately Capitalized	6% to 6.99%
Moderately Capitalized	3.5% to 5.99%
Marginally Capitalized	2% to 3.49%
Minimally Capitalized	0% to 1.99%
Undercapitalized	Less than 0%

### 2. PCA Classification

#### A. Examiner Responsibilities<sup>61</sup>

- You will determine the effective date and PCA classification as defined under §702.101(b) and §702.102; and
- Ensure credit unions under your supervision comply with all requirements of Part 702.

#### B. Effective Date of Classification

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<sup>58</sup> Additional references include the [Examiner’s Guide](#) Chapter 17, Prompt Corrective Action and [Letter to Credit Unions No. 01-CU-01](#).

<sup>59</sup> Examiners need to consider if the credit union meets any applicable risk based requirements for PCA classification.

<sup>60</sup> For PCA purposes, “new” credit unions are in operation for less than 10 years and with total assets of not more than \$10 million.

<sup>61</sup> The RO, at its option, may provide documentation to the examiner to determine the effective date of classification and/or if a credit union is newly chartered, but it is incumbent on the examiner to be familiar with their district information.

The effective date of the net worth classification (§702.101(b)) is the most recent of:

- The last day of the calendar month following the end of the calendar quarter. This is determined by the 5300 Call Report filing and the most typical effective date.
- The date the credit union received subsequent written notice from NCUA or, if state-chartered, the appropriate SSA, of:
  - a decline in net worth category due to a correction of an error or misstatement in the credit union's most recent call report;
  - a reclassification to a lower net worth category on safety and soundness grounds.

If you are recommending lowering the credit union's net worth category to less than well capitalized based on an examination or supervision contact, you must complete the following actions:

- Obtain your supervisor's concurrence, note the agreement in the Confidential Section of the AIRES report, and document the corrected net worth category in the Examination Overview.
- If the examination or the supervision contact reduces net worth to a lower category, and you are not issuing a report to the credit union, prepare a draft letter to formally notify credit union officials of the corrected net worth category and the required PCA action(s). This should be rare. Your findings to lower a credit union's net worth category would be significant in most circumstances, making an AIRES report to the officials warranted for the administrative record. ([Appendix 10-A](#) and [Appendix 10-A1](#) contain two scenarios templates.) Forward the draft letter through your supervisor to the regional DOS mailbox for processing.

### **C. Reclassification Based on Correction – FCU versus FISCU**

The effective date of an examination or supervision contact-based correction to a net worth category varies depending on whether the credit union is federal or state chartered:

For Federal Credit Unions (FCUs): If the contact involves an AIRES report upload (such as an examination or follow-up examination), the effective date is the date the officials receive the final report. If the contact does not involve an AIRES report upload, the effective date will be the date the credit union receives the notification letter.

For Federally Insured State-Chartered Credit Unions (FISCUs): You must consult and seek to work cooperatively with the appropriate SSA official before correcting a net worth category of a FISCU. NCUA examiners will promptly notify the appropriate SSA of its decision to correct a net worth category. The date will depend on whether it was an independent or joint examination.

- The effective date of classification for an independent examination completed by the state supervisory authority (SSA) is when the SSA releases its official examination report.
- The effective date of classification for a joint examination, where the NCUA EIC is aware the SSA will be providing a timely examination report to the FICU, is when the SSA releases its official examination report.
- If it is a joint examination where the SSA may not release its examination report for several months or in the event of an independent insurance review completed by NCUA, you will follow the same procedure used for FCUs (through a notification letter) but give the SSA an opportunity to review the draft notification letter before it is issued and copy the SSA on the final letter.

### 3. Earnings and Reserve Transfer Requirements for “Adequately Capitalized” or Lower FICUs

Subpart B of Part 702 contains regulatory guidance regarding the earnings retention requirements for adequately capitalized or lower credit unions. Earnings retention waiver filing procedures are discussed in Chapter 6 of this Manual.

#### A. Examiner Responsibilities

- Review the accuracy and adequacy of the quarterly net worth increases and reserve transfers since the last supervision contact during examinations and follow-up examinations.
- Determine if it is probable that an FICU will need to request an earnings retention waiver for the current or foreseeable quarters during the course of any examination, follow-up examination, or other supervision activity. If a credit union is likely to need to request an earnings retention waiver, you must address this issue in the examination report. Your supervision plans must incorporate adequate follow-up to ensure earnings retention waiver requests are filed timely.
- If you determine a FICU failed to meet the earnings retention requirements for one or more of the previous quarters during the course of an examination, follow-up examination, or other supervision activity, and did not apply for or did not receive an earnings retention waiver, **you must document the violation in the examination report.** NCUA can take supervisory or other enforcement action against credit unions that either decrease their earnings retention without permission or persistently fail to file their waiver requests timely. You should instruct management to establish procedures to reduce dividends to achieve the required earnings retention requirements or obtain an earnings waiver from NCUA before paying dividends.
- If you identify a FCU that failed to meet its earnings retention requirements and did not seek a waiver (§702.201) through supervision activity outside of an examination or follow-up examination, you will prepare a brief memo outlining your findings and

forward it to your supervisor. The memo will include a draft letter for the RD's signature notifying the officials of the credit union's violation. The supervisor will e-mail the memo and draft letter to DOS Mail for processing.

- In the case of a joint FISCO examination, you will consult with your SE, and work with the SSA to ensure the examination addresses the credit union's failure to meet its earnings retention requirements without a waiver. If the problem is recognized through other supervision activity, you will follow the procedures outlined above and work with the SE to contact the SSA alerting them of the regulatory violation before the notification letter is sent to the FISCO. The SSA will also be copied on the notification letter.

## **B. Regional Office Review**

DOS will determine the proper level of controls for monitoring earnings retention waivers. Monitoring may occur through reviewing risk reports or the regions may have procedures in place to identify credit unions not meeting the regulation or their approved NWRP (if a NWRP was approved with earnings retention less than regulatory guidelines).

## **4. Net Worth Restoration Plans (NWRP) and Revised Business Plans (RBP)**

District examiners are responsible for monitoring compliance with the proper filing and maintenance of a NWRP under §702.206 and Revised Business Plans under §702.306. Regional Directors have delegated authority in the management of the NWRP and RBP approval process.

Credit unions with a net worth ratio less than six percent are required to have in place an NCUA-approved NWRP or, in the case of new credit unions, an initial business plan or a RBP. Credit unions classified as complex per §702.103 also need to meet a risk based net worth (RBNW) requirement and if their RBNW requirement exceeds their net worth ratio they are classified as undercapitalized.

A NWRP/RBP questionnaire is available in AIRES. [Appendix 10-B](#) provides a sample NWRP/RBP. The Office of Small Credit Union Initiatives (OSCUI) is available to assist new credit unions with RBPs and credit unions under \$10 million in assets with NWRPs.<sup>62</sup>

## **A. Processing NWRPs\RBPs - Division of Supervision Responsibilities**

Due to the time sensitivity of NWRP/RBP packages, DOS should perform a cursory review of the incoming package for completeness, making sure all the required information as outlined in §702.206(c) or §702.306(b) is included. For substantially incomplete packages, DOS will draft a letter returning the NWRP/RBP and request the missing information.

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<sup>62</sup> Eligible credit unions request OSCUI assistance by completing the nomination form at <http://www.ncua.gov/Resources/OSCUI/Documents/ConsultNomination.pdf> and checking the NWRP box in the Immediate Services Requested section of the form.

For substantially complete packages, DOS will:

- Prepare a work assignment and send the NWRP/RBP to the examiner and the supervisor with a required response date at least 10 business days before the Regional Director's response deadline.
- Prepare a letter to the CU and provide a date by which the Regional Director will respond consistent with §702.206 or §702.306.

## **B. Processing NWRPs/RBPs - Examiner Responsibilities**

Upon receipt of a substantially complete package, the examiner will contact the credit union to obtain any missing documentation.

You and your supervisor must analyze the NWRP/RBP and provide a written recommendation in a Regional Summary ([Appendix 10-C](#)). You can also reference the optional PCA Checklist ([Appendix 10-D](#)) to ensure all components of the plan are present and satisfy regulatory requirements.

You must also submit a draft letter to DOS Mail ([Appendix 10-E](#) and [Appendix 10-F](#)), through your supervisor, outlining the approval or denial of the NWRP/RBP. If you recommend denying the plan, the letter must list the specific deficiencies in the plan that warrants denial. The Regional Office should ensure the delivery method of the letter to the credit union includes a signature. As noted in [Chapter 8](#), when preparing a Regional Summary where an EDS assisted with the NWRP, examiners will note the EDS assistance in the Regional Summary.

## **C. FISCO NWRP/RBP Processing**

FISCUs will submit their plan to the Regional Director and SSA. The same processing procedures listed above for federal credit unions will apply along with these additional steps:


- Supervisors will coordinate all related issues directly with the SSA;
- Supervisors will, unless submitted directly to the Regional Office, obtain documentation of the SSA's approval or denial; and
- DOS will courtesy copy the appropriate SSA on all signed correspondence between the RD, DOS, and a FISCO including any Regional Director approval or denial letters.

## **D. Failure to Submit an NWRP/RBP**

DOS will monitor credit unions who fail to submit a NWRP/RBP and contact the supervisor for a status report when the NWRP/RBP is not received by the due date.

Examiners will draft an RDL ([Appendix 10-O](#)), through their supervisor, when any credit union fails to timely file the NWRP. The RDL will give the credit union 15 calendar days from the receipt of the notice to submit the NWRP in accordance with §702.206(a)(4).

The supervisor will submit the RDL to DOS Mail within three business days of receipt. FISCUs may require SSA consultation.

	Sometimes credit unions may be in the process of or choose to seek a merger. The RD can agree to accept a merger plan in lieu of a NWRP/RBP. However, the RD's approval should be subject to the credit union filing an acceptable merger plan or NWRP by a reasonable but specific deadline. If the merging credit union is critically undercapitalized or undercapitalized the deadline should be set to ensure compliance with §702.204 or §702.305.
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## **E. Monitoring NWRPs and RBPs after Approval**

Examiners will monitor each credit union operating with a net worth ratio less than 6 percent and provide their supervisor with a quarterly update report ([Appendix 10-G](#)). Examiners will perform onsite supervision contacts of these credit unions to assess compliance with PCA and overall net worth stability.

Examiners and their supervisor are responsible for monitoring the level of compliance with the NWRP/RBP. Examiners should document their compliance review in the Status Update of each examination or follow-up examination report.

If the review determines the credit union has materially fallen short of the earnings and net worth ratio goals of the plan, examiners will:

- Instruct the credit union to make adjustments to financial and operational strategies to come into compliance with the NWRP/RBP;
- Advise, when appropriate, the credit union to develop and submit a revised NWRP/RBP; or
- Pursue additional supervisory remedies, such as administrative action.

If the review determines the existing, approved plan is no longer adequate, examiners will send an e-mail (through their supervisor) to their region's DOS mailbox along with a draft RDL ([Appendix 10-N](#)) advising the credit union of the need for revisions and instructing it to submit a revised plan.

Documentation will include a comparison of the credit union's actual performance with its current NWRP/RBP. [Appendix 10-G](#) outlines a credit union's action plan and quarterly NWRP/RBP targets for net worth ratio, earnings transfer, assets, etc. and can be used to document and track the plan's performance.

Any findings or concerns relating to the NWRP should also be cited in the examination report as appropriate.

## **F. NWRP/RBP that are No Longer Needed**

Once a non-new credit union with a NWRP is effectively classified as "adequately capitalized" under PCA and successfully remains so for four consecutive calendar quarters,



the credit union is no longer required to operate under a NWRP and the NWRP is no longer in effect.

A new credit union's RBP remains in effect until they are no longer considered new (i.e. the credit union has been in operation more than ten years or has assets greater than \$10 million).

Examiners, with the SE's concurrence, will review the credit union's financial and operational condition, confirm the accuracy of the net worth classification, and draft a memo to the RD confirming the NWRP or RBP is no longer in effect.

- Your memo will include a draft letter advising the credit union of the NWRP ending ([Appendix 10-H](#)) and the need to continue retaining earnings as required by Part 702.
- Your memo will include supervision plans, if necessary, for monitoring PCA compliance (earnings retention) until the credit union becomes "well capitalized."
  - In the case of FISCUs, the supervisor will contact the SSA to discuss the NWRP/RBP ending and ongoing supervision plans. The SSA will receive a courtesy copy of the letter notifying the FISCU the NWRP/RBP is no longer in effect.
- The supervisor will review the recommendation and the draft letter and forward to DOS for processing.
- The regional office will issue the letter to credit unions formally acknowledging the NWRP/RBP is no longer in effect.

## **5. Invoking Discretionary Supervisory Actions (DSAs) and Other Corrective Actions (OCAs) for Critically Undercapitalized Credit Unions**

### **A. Discretionary Supervisory Actions**

[NCUA Instruction No. 3501.01, Discretionary Supervisory Actions \(DSAs\) under Prompt Corrective Action \(PCA\)](#) addresses national policy for processing Discretionary Supervisory Actions.

For DSAs, examiners will submit through their supervisor:

- A Regional Summary ([Appendix 10-J](#)); and
- The credit union's most recent balance sheet and income statement.

DOS will review and process the action for RD approval (and NCUA Board approval if necessary).

### **B. Other Corrective Actions for Critically Undercapitalized Credit Unions**

For critically undercapitalized credit unions, NCUA may approve Other Corrective Action (OCA) in lieu of conservatorship or liquidation (§702.204(c)). The Regional Director has delegated authority to approve OCA for credit unions with assets less than \$5 million. The NCUA Board approval as well as concurrence from the Office of Examination and Insurance is required for credit unions greater than \$5 million in assets.

**i. Processing**

The [Enforcement Manual](#) addresses the required contents of OCA packages. For OCA requiring Regional Director approval only, use [Appendix 10-K](#).

**ii. Timing of Submission**

Timing of these submissions is critical, especially when NCUA Board approval is required. NCUA has 90 days from the effective date the credit union became critically undercapitalized to approve OCA. The region is responsible for submitting the BAM and obtaining concurrence from E&I and OGC within completion due dates for Board actions.

**iii. FISCUs**

Joint actions with the SSA are preferred for FISCUs. However, examiners can recommend actions without SSA concurrence, if necessary. You should note the concurrence or non-concurrence of the SSA in the Regional Summary.

**6. Guidelines for Submission of an Application for a PCA Risk Mitigation Credit**

**NCUA publication 8507** – *Guidelines for Submission of an Application for a PCA Risk Mitigation Credit* ([Appendix 10-L](#)) provides detailed information on applications for a PCA Risk Mitigation Credit provided in §702.108.

**NCUA publication 8508** - *Guidelines for Evaluation of an Application for a PCA Risk Mitigation Credit* ([Appendix 10-M](#)) provides detailed information for NCUA staff on how to evaluate credit union applications for a PCA Risk Mitigation Credit provided under §702.108 of the [NCUA Rules and Regulations](#).

Due to the complex analysis necessary for a Risk Mitigation Credit, regions will need to seek the assistance of the appropriate level of expertise within NCUA. This includes E&I with experience in processing prior risk mitigation credits, specific program officers, and senior capital market specialists.

Processing Responsibilities

- DOS will review a request for a Risk Mitigation Credit for complete information. If the information submitted is incomplete or inadequate, DOS will request additional information. The RD has 45 days from the receipt of a complete application to respond to the credit union's request for a Risk Mitigation Credit. DOS will coordinate participation of NCUA staff experts with the region. DOS will forward complete requests to the

examiner, through their supervisor, for review, concurrence and a recommendation for approval or denial. Examiners will document sufficient analysis to support the recommended action.

- Examiners will prepare a memo summarizing the application and make a recommendation for approval or denial. The supervisor will review the package and forward it to DOS indicating their concurrence or non-concurrence with the examiner's recommendation. DOS will then review and process the action for RD approval after determining the examiner has provided sufficient support and documentation for the administrative record.

## **7. Monitoring and Controls**

### **A. Regional Level Reporting**

- Regions will monitor credit union compliance with PCA and maintain records of all PCA actions.
- Each region will submit a PCA status report to E&I each quarter by the 25<sup>th</sup> of the 2<sup>nd</sup> month following quarter end.<sup>63</sup>
- The Regional Offices are responsible for maintaining the administrative record supporting actions taken.

### **B. E&I Level Reporting**

- E&I will review regional activity on a quarterly basis as a means of tracking regional and national trends for consistency and policy formation purposes. E&I will issue a national summary of the quarterly regional reports analyzing national trends.
- E&I will periodically request a sampling of actions taken under this chapter for quality control purposes as part of an ongoing quality assurance process.

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<sup>63</sup> Until a centralized database/tool is developed, regions will continue to use reporting systems currently in place.

## Appendix 10-A

### Regional Director Letter – Net Worth Category Reclassification (Example #1)

Date

SENT VIA FEDEX – RETURN SIGNATURE REQUIRED

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

According to the June 30, 2XXX Call Report that [CU Name] originally submitted to NCUA, your net worth ratio was 6.01 percent, placing the credit union in the “adequately capitalized” net worth category. During the August 2XXX onsite supervision contact, the June 30, 2XXX Call Report was corrected based on agreed-upon errors, decreasing your net worth to 1.70 percent, and placing the credit union in the “critically undercapitalized” net worth category.

[Include additional details as necessary]

This letter serves as written notice to [Name of CU], pursuant to 12 C.F.R. 702.101(b)(2), that the date of this letter (above) is the effective date of [Name of CU’s] reclassification to the “critically undercapitalized” net worth category.

[Include description of required actions and timeframes] Within 90 days of the effective date that an insured credit union is classified “critically undercapitalized,” NCUA is required by law to either conserve or liquidate the credit union or to order other corrective action to better achieve the purpose of PCA. 12 U.S.C. 1790d(i)(1); 12 C.F.R. 702.204(c)(1). In [Name of CU’s] case, the 90-day period during which NCUA must act on the statutory mandate closes on December X, 2XXX.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER’S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 10-A1

### Regional Director Letter – Net Worth Category Reclassification (Example #2)

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

As you are aware, Part 702 of the NCUA Rules and Regulations, Prompt Corrective Action (PCA) requires credit unions with net worth less than 6 percent of assets [or fails to meet its risk-based net worth (RBNW) requirement ] to file a net worth restoration plan (NWRP) with NCUA for approval. The NWRP and its supporting documents must meet the minimum standards set forth in Section 702.206(c).

The December 31, 2005, examination [follow-up examination] recently completed by Examiner John Smith determined the credit union's correct net worth as of December 31, 2005, was x percent [and your risk-based requirement was y percent]. As of March 4, 2006, the date you received the final examination report, your credit union was reclassified as undercapitalized under PCA (see Section 702.101(b)) and the credit union must now file an NWRP.

As outlined in Section 702.101(b) and 702.206(a), you must submit your NWRP to me by April 18, 2006 [set a response date that is 45 days from the date the credit union received the final examination report; if the contact did not include an examination report, use a reasonable estimate of the date the credit union would receive this notification letter and set the response date 45 days from the receipt of the letter]. I will provide you with my written response within 45 days of the receipt of your plan.

[For credit unions \$10 million or less in need of a NWRP including the following: "NCUA's Office of Small Credit Union Initiatives (OSCU) is available to assist with drafting a NWRP. To request assistance, complete the OSCUI Consulting Nomination Form found at <http://www.ncua.gov/Resources/OSCU/Documents/ConsultNomination.pdf> and check the Net Worth Restoration Plan box in the Immediate Services Requested section of the form]

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]

SSIC XXXX

Charter #

cc:     SE  
         EX  
         SSA (when applicable)

**Appendix 10-B**  
**Sample NWRP/RBP and Assumptions Workbook**

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Net Worth Restoration Plan/Revised Business Plan  
for  
[CREDIT UNION NAME]  
Charter [CHARTER #]

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We (the credit union's officials) submit for approval by the NCUA the following Net Worth Restoration Plan (plan) and its attachments.

*This document does the following.*

- Establishes our net worth ratio as of [EFFECTIVE DATE].
- Sets forth the steps we plan to take to improve our net worth ratio.
- Establishes the benchmarks we plan to attain beginning [START OF PLAN] and ending [END OF PLAN].
- Sets forth the mandatory supervisory actions we and the NCUA must take, as required by law or regulation.
- Itemizes the types and level of activities we will engage in.

As defined by Part 702, as of [EFFECTIVE DATE].

**CURRENT STATUS**

NET WORTH IN TOTAL DOLLARS:	
TOTAL ASSETS CALCULATION METHOD:	
TOTAL ASSETS BASED ON CALCULATION METHOD:	
NET WORTH%:	
NET WORTH CATEGORY:	

**We plan to take the following steps to improve our net worth.**

Plan of Action	Responsible Person Completion Date

**While taking these steps, we will meet or exceed certain financial goals. Our benchmarks follow:**

**Net Worth and Assets.** [DISCUSS RELEVANT FACTORS] Shown below are our quarterly benchmarks.

Period Ending	Asset Growth for Quarter	Net Worth Growth for Quarter	Assets – Not to Exceed	Net Worth – Minimum Amount	Net Worth Ratio

*(Extend projections through the life of the plan plus 4 quarters)*

**Return on Assets, Gross Income, and Expense Ratios.** [DISCUSS RELEVANT FACTORS] Shown below are our quarterly benchmarks.

Period Ending	Year to Date Net Income/Assets	Year to Date Gross Income/Assets	Year to Date Operating Exp./Assets

*(Extend projections through the life of the plan plus 4 quarters)*

**Amount of earnings to be transferred to the Regular Reserve.** [DISCUSS RELEVANT FACTORS] Shown below are our quarterly benchmarks.

Period Ending	Assets – Not to Exceed	Minimum Net Income for Quarter	Required Reserve Transfer	Minimum Total Net Worth	Net Worth Ratio

*(Extend projections through the life of the plan plus 4 quarters)*

We plan to make the following changes in the kind of service provided to our members.

- 
- 

We agree to take the following corrective actions, as discussed in our most recent examination:

- 
- 

We plan to comply with the following mandatory supervisory actions:

- Increase net worth by at least 1/10<sup>th</sup> percent (0.1%) of total assets each quarter.



- Transfer not less than 1/10<sup>th</sup> percent (0.1%) of total assets from undivided earnings to the regular reserve per §702.201(a) of NCUA's Rules and Regulations each quarter.
- Limit asset growth until the NWRP is approved.
- Except to fund existing business loan commitments, discontinue extending new credit for member business loans. (Unless the credit union already has a business loan exception in place.)

*We understand the NCUA **may** take discretionary supervisory actions should we fail in our efforts to improve our Net Worth by at least 0.1% of total assets each quarter.*

*We are incorporating a pro forma balance sheet and income statement covering the period until net capital reaches 6% plus a minimum of the next four quarters.*

**(Optional)** We are also incorporating a copy of our business plan.

This plan is effective until it is replaced or canceled.

- This plan extends until **[END OF PLAN]**; unless it is replaced by a revised Net Worth Restoration Plan.
- We understand the NCUA **[and the STATE SUPERVISORY AUTHORITY]** will review our performance and compliance with the plan during onsite examinations of the credit union.

Submitted for the **[CREDIT UNION NAME]**:

_____ Board Chairperson	_____ Date
_____ Treasurer	_____ Date
_____ Secretary	_____ Date

---

## **Appendix 10-B1**

### **Sample NWRP Assumptions, Financial Projections and Ratios**

(Embedded in excel spreadsheet below).



**Pro Forma Financials  
and Ratios.xls**

**Appendix 10-C**  
**Regional Summary for NWRP/RBP Review**

<b>REGIONAL SUMMARY</b> <b>Net Worth Restoration Plan / Revised Business Plan</b>
--

<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>SUPERVISOR NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>TOTAL NET WORTH</b>	
<b>NET WORTH RATIO</b>	
<b>NET WORTH CATEGORY</b>	
<b>TARGET DATE TO ACHIEVE 6% NET WORTH RATIO</b>	
<b>TARGET RELEASE DATE</b>	

**FOM Description:**

**Reason for Request**

*Provide background of reasons the credit union's net worth is at a level it needs a NWRP/RBP.*

**Assessment of Management**

*Provide an assessment of management and their ability to comply with the submitted plan.*

**Effectiveness of Action Steps**

*Do the above actions steps address the areas of concerns leading to low net worth?*

**Complexity of Plan**

*Does the complexity of the Plan match the credit union's level of ability?*

**Goals, Assumptions, and Projections**

*Are the goals, assumptions and projections realistic and attainable? Are they supportable? Is the length of time projected to build net worth to 6% reasonable? Are projected growth and yields reasonable compared to current performance or has/will management make operational changes to achieve projected growth? If the credit union is complex under PCA, does the plan and projections take into account the RBNW requirement?*

**Financial Performance Compared to Plan**

*Discuss current financial performance and how this performance compares to the Plan's projections. Is the Plan reasonable? Specifically address gross income, expenses, PLLL, and cost of funds. Address any factors which have changed since the submission of the Plan. Address if*

*the credit union has a reporting mechanism in place to monitor actual versus budgeted performance.*

### **Regulation Requirements**

*Does the Plan meet the requirements of §702.206 (c) and (d) or §702.306 (b) and (c)? In particular, does the Plan provide a quarterly timetable of steps the credit union will take to increase its net worth ratio to become "adequately capitalized" or by the end of the term of the plan, and to remain so for four (4) consecutive quarters? Does the plan project the amount of net worth increase and transfer of this amount to the regular reserve account in each quarter of the term of the Plan equivalent to not less than 1/10<sup>th</sup> percent (0.1%) of its total assets under §702.201(a), or such lesser amount as the NCUAB may permit under §702.201(b) or for new credit unions an amount permitted under §702.306(b)(2)?*

### **Other Pertinent Information**

#### **Concurrence of SSA (if applicable)**

*For FISCUs, examiners and their supervisor will contact the SSA for concurrence and note in their summary to the Regional Office.*

<b>EXAMINER AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
--

***Examiner's Recommendation:***

*Please include with an EDS assisted with the NWRP/RBP.*

***Supervisor Concurrence:***

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

#### **Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date \_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_

Date\_\_\_\_\_

**Appendix 10-D**  
**NWRP/RBP Review Checklist**

**NWRP/RBP Review Checklist**  
**Refer to §702.206(c) for NWRP requirements**  
**and §702.306(b) for RBP requirements**

CU NAME			
CHARTER			
EXAMINER			
NW CATEGORY			
END DATE OF PLAN			
<b>If you answer no to any question, you should deny the plan or work with the CU to resolve the issue(s) within the required timeframe. Does the NWRP/RBP contain the following information:</b>			
	YES	NO	N/A
1. Quarterly timetable showing net worth reaching "adequately capitalized" and remaining so for 4 consecutive quarters (Note - Complex CUs should also include the RBNW requirements)			
2. Projected amount of earnings transferred to regular reserves for each quarter of the NWRP/RBP. (Note - To make an earnings transfer, the CU must show positive net income for the quarter. If they project a loss for the quarter, the earnings transfer would be \$0. The plan then serves as an earnings transfer waiver for that quarter.)			
3. Explanation of how CU will comply with mandatory and discretionary supervisory actions			
4. Explanation of the types and levels of activities in which the CU will engage.			
5. Pro forma financial statements for a minimum of 2 years or the length of the plan.			
6. Explanation of steps CU will take to correct unsafe or unsound practices/conditions if CU reclassified to a lower NW level.			
7. <u>RBP only</u> - Provide any address changes made since the original business plan approved.			
8. Include a signature page with at least 2 board officials' signature.			
<b>Does the plan meet the following criteria:</b>			
1. Address all items listed above.			
2. Based on realistic assumptions and is likely to succeed in building the CU's net worth.			
3. Would not unreasonably increase the CU's exposure to risk.			
<b>Comments:</b>			



**Appendix 10-E**  
**NWRP/RBP Approval Letter**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Street  
City, State Zip

Dear Mr. Doe:

I am pleased to inform you of the approval of the [Net Worth Restoration Plan or Revised Business Plan] you submitted on June 15, 2XXX. You must continue to make reserve transfers as required by Part 702 of the NCUA Rules and Regulations until you are considered “well capitalized.” If you fail to achieve a level of earnings sufficient to make these transfers, you will be required to take further action.

The board of directors and management should review the [NWRP or RBP] on a regular basis to ensure the credit union is meeting the plan’s goals. In the event you wish to amend your [NWRP/RBP], you must seek my prior approval as noted in [Part 702.206(h) for NWRP or Part 702.306(g) for RBP] of the NCUA Rules and Regulations.

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER’S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
       EX  
       SSA (when applicable)



**Appendix 10-F**  
**NWRP/RBP Denial Letter**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your [Net Worth Restoration Plan or Revised Business Plan] (Plan) received on June 15, 2XXX. Unfortunately, I cannot approve the Plan because it does not meet all necessary requirements contained in [Section 702.206 (c) for NWRPs] or [Section 702.306(c) for RBPs] of the NCUA *Rules and Regulations*, or lacks support for the projections. The Plan is deficient for the following reasons:

- 
- 
- 

[Add any additional relevant commentary.]

You have 30 days from receipt of this letter to submit a revised [Net Worth Restoration Plan or Revised Business Plan] to this office. *[For credit unions \$10 million or less include the following statement:* NCUA's Office of Small Credit Union Initiatives (OSCUI) is available to assist you. To request assistance complete the OSCUI Consulting Nomination form found at <http://www.ncua.gov/Resources/OSCUI/Documents/ConsultNomination.pdf> and check the Net Worth Restoration Plan box in the Immediate Services Requested section of the form.]

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

**Appendix 10-G**  
**PCA Quarterly Plan Tracking Report**

**QUARTERLY PCA TRACKING REPORT**

<b>Charter/Insurance Number:</b>	
<b>Credit Union Name:</b>	
<b>Plan Version (RD Approval Date):</b>	
<b>Target date to achieve 6% Net Worth Ratio</b>	
<b>Target Release Date</b>	

Plan Tracking Table		Current Qtr	Current Qtr+1	Current Qtr+2	Current Qtr+3
Net Income	Projected \$				
	Actual \$				
	Projected %				
	Actual %				
Assets	Projected \$				
	Actual \$				
Earnings Transfer	Projected \$				
	Actual \$				
Net Worth	Projected %				
	Actual %				
Asset Growth	Projected %				
	Actual %				
Member Business Loans	Projected \$				
	Actual \$				

<b>Discuss below key items impacting plan compliance or affecting future plan compliance:</b>
If the credit union is not meeting the terms of the plan, what action has been taken? (Require revised NWRP, require response from credit union regarding actions that will allow them to meet future needs terms; none – credit union will meet terms next quarter, other).

<b>Compliance With Mandatory Supervisory Actions:</b>	<b>Yes</b>	<b>No</b>
Earnings Retention?		
Comments:		
Restrict increase in assets?		
Comments:		
Restrict member business loans		
Comments		

Ability to Meet Future Plan	Current Qtr	Current Qtr+1	Current Qtr+2	Current Qtr+3
-----------------------------	-------------	---------------	---------------	---------------

Plan Projected Net Worth %				
Comments:				

Other Actions Needed	Yes	No
Revised NWRP needed?		
RD Letter requiring additional corrective measures? (attach draft)		
Impose Discretionary Supervisory Actions (DSA)? (identify potential DSA)		
CU eligible for release from NWRP?		
Supervisors concurs?		

## Appendix 10-H

### Notification that NWRP/RBP is no Longer Needed

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

On [Month XX, 20XX], your credit union's Net Worth Restoration Plan (NWRP) was approved by the National Credit Union Administration (NCUA) as required by Part 702 of the NCUA Rules and Regulations.

Our review of your [Month XX, 20XX], 5300 call report shows your credit union's net worth position has been at least "adequately capitalized" for four consecutive calendar quarters. Therefore, your NWRP is no longer required. I appreciate the hard work and dedication your management team showed in restoring the credit union's financial health.

Although your credit union no longer operates under a net worth restoration plan, you must continue to comply with Part 702 by increasing the dollar amount of your net worth quarterly by at least 0.10 percent of assets and transferring that amount to the regular reserves. This requirement remains in effect until your credit union is well capitalized, with net worth of seven percent or more.

Please note if the credit union is classified as undercapitalized or lower at some point in the future, it will be necessary to submit a new NWRP to NCUA for approval within 45 days of the new effective date of classification *[or in the case of a credit union that is still classified as "new" under PCA: Please note if the credit union is classified as moderately capitalized or lower at some point in the future and it is still classified as "new" under Section 702.301(b) it will be necessary to submit a new RBP to NCUA for approval within 30 days of the new effective date of classification]*.

[For credit unions \$50 million and less, newly chartered (less than 3 years old) or low income designated consider including the following statement: In your efforts to improve your financial condition, you may wish to take advantage of programs offered by NCUA's Office of Small Credit Union Initiatives (OSCUI). OSCUI provides guidance and assistance to small, new, and low-income designated credit unions through four primary programs - Training, Grants and Loans, Partnerships and Outreach, and Consulting Services. More information is available from your examiner or at <http://www.ncua.gov/Resources/OSCUI>.]

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 10-I

### Regional Summary (E&I Format) – DSA – Board Approval

#### **Format of Regional Summary For Discretionary Supervisory Actions (DSAs):**

##### Background Information

- Asset size
- Field of membership
- Date chartered
- CAMEL code

##### Current PCA status and History:

- Current Net Worth Ratio (NWR) and Category, recent trend in NWR.
- Date first classified as less than “Adequately Capitalized,” NWR and Category at that time.
- Date of initial Net Worth Restoration Plan (NWRP) approval (if applicable).
  - NWRP items not addressed.
- Any other actions under PCA such as approval and renewals of “Other Corrective Action” in lieu of Conservatorship or Liquidation as provided under §702.204(c)(3).
- If applicable, discuss required merger pursuant to §702.203 (b)(12), if the credit union is “Significantly Undercapitalized” with no prospect of becoming “Adequately Capitalized:”
  - Grounds for Title II Conservatorship pursuant to 12 U.S.C. 1786 (h)(1)(F).
  - Grounds for Title II Liquidation pursuant to 12 U.S.C. 1787 (a)(3)(A)(i).

Identify the problems that led to the current net worth position and make reference back to the reasons summarized in the *Intent Notice* why the DSAs will resolve these problems:

- The root problem.
- The cause of the problem (comment on managements’ role).
- The impact of the problem.
- How long the problem existed.

Summary of SSA’s role in DSA(s) (if applicable)

## Appendix 10-J

### Regional Summary – DSA – RD Approval

<b>REGIONAL SUMMARY</b> <b>Discretionary Supervisory Action</b>	
--	--

<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>SUPERVISOR NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>TOTAL NET WORTH</b>	
<b>NET WORTH RATIO</b>	
<b>NET WORTH CATEGORY</b>	

#### **FOM Description**

#### **Action Requested**

#### **Reason and Support for Request**

(Include background of events leading to the need of a DSA. Include a discussion of how the DSA will achieve the desired effect and increase net worth.)

#### **Assessment of Management**

(Discuss management's capability and cooperation with the actions.)

#### **Problem Areas and Current Issues**

#### **Prompt Corrective Action**

(Discuss current NWRP/RBP, MSAs, and actions of the credit union.)

#### **Alternatives**

(Discuss alternatives and adverse effects on the credit union and net worth.)

#### **Other Pertinent Information**

#### **SSA Concurrence (if applicable)**

<b>EXAMINERS AND supervisor RECOMMENDATIONS AND COMMENTS:</b>
---

Examiners Recommendation:

Supervisor Concurrence:

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

**Analyst Comments:**

**APPROVE** ☐                      **DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐                      **DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐                      **DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

---

**APPROVE** ☐                      **DISAPPROVE** ☐

Regional Director \_\_\_\_\_ Date\_\_\_\_\_



**Appendix 10-K**  
**Regional Summary – OCA – RD Approval**

<b>REGIONAL SUMMARY</b> <b>Other Corrective Action</b> <b>In Lieu of Conservatorship or Liquidation</b>
---

<b>CHARTER NUMBER</b>	
<b>CREDIT UNION NAME</b>	
<b>supervisor NAME / EXAMINER NAME</b>	
<b>CAMEL CODE / EFFECTIVE DATE OF CAMEL</b>	
<b>FINANCIAL DATA DATE</b>	
<b>TOTAL ASSETS</b>	
<b>TOTAL NET WORTH</b>	
<b>NET WORTH RATIO</b>	
<b>NET WORTH CATEGORY</b>	

**FOM Description**

**Action Requested**

**Reason and Support for Request**

(Include background of events leading to the need of an OCA. Include a discussion of how the OCA will achieve the desired effect and increase net worth.)

**Assessment of Management**

(Discuss management's capability and cooperation with the actions.)

**Problem Areas and Current Issues**

**Prompt Corrective Action**

(Discuss current NWRP/RBP, MSAs, and actions of the credit union.)

**Alternatives**

(Discuss alternatives – liquidation, conservatorship, other corrective action - and adverse effects on the credit union and net worth.)

**Other Pertinent Information**

**SSA Concurrence (if applicable)**

<b>EXAMINER AND SUPERVISOR RECOMMENDATIONS AND COMMENTS:</b>
--

Examiner Recommendation:

Supervisor Concurrence:

<b>APPROVAL/DENIAL RECOMMENDATIONS</b>
--

**Analyst Comments:**

**APPROVE** ☐

**DISAPPROVE** ☐

Supervision Analyst \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Director of Supervision \_\_\_\_\_ Date\_\_\_\_\_

**APPROVE** ☐

**DISAPPROVE** ☐

Associate Regional Director \_\_\_\_\_ Date\_\_\_\_\_

---

**APPROVE** ☐

**DISAPPROVE** ☐

## **Appendix 10-L**

NCUA 8507 Guidelines for Submission of an Application for PCA Risk Mitigation Credit

[http://www.ncua.gov/GenInfo/GuidesManuals/pca\\_guidelines/NCUA8507.pdf](http://www.ncua.gov/GenInfo/GuidesManuals/pca_guidelines/NCUA8507.pdf)



NCUA8507.pdf

## **Appendix 10-M**

### **Guidelines for Evaluation of Application for PCA Risk Mitigation Credit**

[http://www.ncua.gov/GenInfo/GuidesManuals/pca\\_guidelines/NCUA8508.pdf](http://www.ncua.gov/GenInfo/GuidesManuals/pca_guidelines/NCUA8508.pdf)



NCUA8508.pdf

**Appendix 10-N**  
**RDL Notifying Credit Union to Revise/Replace NWRP**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

Examiner John Smith recently reviewed your credit union's compliance with its current net worth restoration plan (NWRP), which I approved on November xx, 20XX. As you know, this plan is part of the mandatory supervisory action required under Part 702 of the NCUA Rules and Regulations, Prompt Corrective Action (PCA) and the credit union is responsible for its performance.

The review identified several deficiencies regarding the credit union's progress implementing the plan and achieving its goals. Those deficiencies include:

- Quarterly Increases in Net Worth – The credit union has been unable to increase net worth for the last three quarters ending September 30, 2009, December 31, 2009, and March 31, 2010, consistent with its existing NWRP. As of March 31, 2010, the credit union's net worth ratio was 200 basis points below its NWRP target of 6.50 percent.
- Earnings Transfers – The credit union failed to generate sufficient earnings to meet its plan's targeted earnings transfers to regular reserves for the December 31, 2009, and March 31, 2010, quarters and has had to request substantial reductions in the transfer amounts for both quarters.
- Delinquency Control – Delinquency has increased since the beginning of 2009 due to sponsor layoffs and declining collection activity. As of March 31, 2010, delinquency stood at 8.00 percent, which is well above the NWRP's targeted 4.00 percent.

These problems indicate the NWRP is no longer adequate and it needs to be revised or replaced if the credit union is going to successfully meet PCA's capitalization requirements.

As outlined in §702.206(a)(3), this serves to notify you that the credit union must submit a new or revised NWRP to me within 30 days of the receipt of this letter. Please ensure the plan and its supporting documents meet the minimum standards set forth in §702.206. I will provide you with my written response within 30 days of the receipt of your plan.

Mr. John Doe  
Date  
Page Two

[For credit unions \$10 million or less include the following statement: NCUA's Office of Small Credit Union Initiatives (OSCUI) is available to assist you. To request assistance complete the OSCUI Consulting Nomination form at <http://www.ncua.gov/Resources/OSCUI/Documents/ConsultNomination.pdf> and check the Net Worth Restoration Plan box in the Immediate Services Requested section of the form.]

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 10-O

### RDL Notifying Credit Union to Submit NWRP/RBP (CU failed to submit NWRP/RBP)

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

Based on the September 30, 2010 call report, your risk based net worth ratio is 6.62 percent and exceeds your net worth ratio of 6.00 percent. As a result, your credit union is classified as undercapitalized as outlined in NCUA Rules and Regulations Part 702. All federally-insured credit unions classified as undercapitalized must file a Net Worth Restoration Plan (NWRP) outlining the steps they will take to improve net worth.

Enclosed is a sample NWRP. Your plan does not have to be identical, but it should include all of the information included in the sample. I recommend you become familiar with the requirements of Part 702 as soon as possible.

At a minimum, your NWRP must specify:

1. A quarterly timetable of steps your credit union will take to increase its net worth ratio so that it becomes “adequately capitalized” by the end of the term of the Plan, and to remain so for four (4) consecutive calendar quarters;
2. The projected amount of earnings to be transferred to the regular reserve in each quarter of the term of the Plan equivalent to not less than 1/10<sup>th</sup> percent (0.1%) of its total assets;
3. How your credit union will comply with the mandatory and discretionary supervisory actions imposed on it by the NCUA Board under this subpart; and
4. The types and levels of activities in which the credit union will engage.

In addition, the NWRP must:

1. Note any new services to be provided;
2. Identify any planned major fixed asset acquisitions; and
3. Include pro forma financial statements, including any off-balance sheet items, covering the period until net worth reaches 6 percent plus a minimum of four additional quarters. The projected data should be more highly detailed and presented in quarterly format for the first two years. Subsequent periods may be presented on an annual basis.

Mr. John Doe  
Date  
Page Two

You have until December 15, 2010 to submit a NWRP to this office. NCUA is available to assist in the development of your NWRP. You may request additional assistance by submitting a formal request to my office. *[For credit unions \$10 million or less substitute the following for the previous sentence: NCUA's Office of Small Credit Union Initiatives(OSCUI) is available to assist you. To request assistance complete the OSCUI Consulting Nomination form found at <http://www.ncua.gov/Resources/OSCUI/Documents/ConsultNomination.pdf> and check the Net Worth Restoration Plan box in the Immediate Services Requested section of the form.]*

Please contact Examiner [examiner name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #  
Enclosure

cc:     SE  
       EX  
       SSA (when applicable)



# Chapter 11 – Administrative Remedies

Administrative remedies<sup>64</sup> are available to prevent or eliminate serious operational and financial problems in credit unions. Administrative remedies provide protection to credit unions, credit union members, creditors, the NCUSIF, and the credit union industry. Administrative remedies are tools available to NCUA to affect problem resolution.

This chapter provides an overview of administrative actions and establishes expectations, procedures, and controls for developing and processing specific informal and formal actions.<sup>65</sup> The guidance in this chapter is intended to improve efficiency and consistency in preparing administrative actions. Correspondence templates are included in the appendix of this chapter for guidance purposes. The templates are a guide and must always be modified in order to assure they are suitable for the particular facts and circumstances of a given case. The details of the particular problems as well as the expected timeframes and specific corrective action should be clearly spelled out in the body of the agreement. The Office of General Counsel is available to assist in preparing, reviewing, and negotiating any formal administrative action should such assistance be desired and requested by the Regional Office.

Formal administrative action processes and guidance are referenced in [NCUA Instruction 4820 - Enforcement Manual](#) and chapters 29 and 30 of the [Examiner's Guide](#).

## 1. General Responsibilities Regarding Administrative Remedies

### A. Examiner Responsibilities

Examiners will detect and formulate action plans to resolve credit union problems before they become insurmountable. Examiners will address issues during examinations and supervision contacts and recommend elevated actions when appropriate. Certain administrative actions are expected on all CAMEL 4 and 5s (see [Supervisory Letter No. 10-4](#)). Refer to [Chapter 1](#) for further administrative action requirement details. Additionally, examiners will:

- Adhere to administrative action processes in this chapter and draft necessary documents.
- Work with their supervisor to provide analysis and documentation that supports any recommended action.

---

<sup>64</sup> “Administrative remedies” refers to a broad range of actions that, while including formal actions such as published Letters of Understanding and Agreement and cease and desist orders, also includes informal actions such as Documents of Resolution, Regional Director Letters, unpublished Letters of Understanding and Agreement, and Preliminary Warning Letters.

<sup>65</sup> [Supervisory Letter 10-04, Administrative Remedies](#), [NCUA Instruction No. 4820 - Enforcement Manual](#), [NCUA Instruction No. 4810, Special Assistance Manual](#), and Chapters 29 and 30 in the [Examiner's Guide](#) provide additional information on administrative remedies.

- Provide correspondence to credit unions that is accurate, easily understood, and results oriented with clearly established expectations and goals.
- Monitor credit union compliance with agreed-upon corrective action and timeframes and recommend necessary alternative actions based upon the level of resolution.

## **B. Supervisor Responsibilities**

Supervisors will confirm examiners adequately recognize and address risk(s) and use the appropriate level of administrative action. Additionally, supervisors will:

- Follow the administrative action processes in this chapter, while ensuring proper analysis and documentation supports all administrative actions.
- Monitor examiners' supervision plans and activities for compliance with appropriate resolution and national requirements.
- Confirm compliance with agreed-upon corrective action and timeframes and review examiners' recommended alternative actions based upon the level of resolution.
- Ensure documents drafted by examiners are professional and results oriented.

## **C. Regional Director Responsibilities**

Regional Directors will ensure any recommended administrative action is warranted and supported. Additionally, Regional Directors will:

- Confirm proper monitoring of administrative actions and sufficient progress of problem resolution.
- Provide a process to track administrative actions and provide Control Reports as discussed in Section 9 of this chapter.

## **D. E&I and the Office of General Counsel Responsibilities**

E&I and the Office of General Counsel (OGC) will review administrative actions for concurrence when required under delegated authority. E&I and OGC will provide advice and guidance on the use and issuance of administrative actions. Additionally, E&I will:

- Routinely request reports from the regions and may periodically request a sampling of issued administrative actions for quality control purposes as part of an ongoing quality assurance process.
- Review regional activity as a means of tracking regional and national trends for resource, consistency, and policy formation purposes and will issue a semi-annual national summary of administrative actions.

## **2. Types of Administrative Remedies**

Administrative remedies fall into two different categories: informal actions and formal actions (enforcement actions). Formal actions are taken when an event triggers a level of concern requiring immediate attention and/or informal actions have not resolved the core concerns to NCUA's satisfaction.

### **A. Informal Actions**

The Regional Director must approve all informal actions with the exception of a Document of Resolution. Informal actions include the following:

- Document of Resolution (DOR);
- Regional Director Letter (RDL);
- Letter of Understanding and Agreement (LUA) (non-published);
- Preliminary Warning Letter (PWL); and
- Regulator leverage.<sup>66</sup>

### **B. Formal Actions**

Unlike most informal actions, formal actions are authorized by statute (mandated in some cases), are generally more severe, and may be disclosed to the public. OGC must be consulted on all formal actions and they must be approved as outlined in the Delegations of Authority. When considering a formal action, OGC will be consulted as early in the process as possible. Formal actions include:

- Published Letter of Understanding and Agreement (LUA);
- Immediate and/or Permanent Cease and Desist Order;
- Civil Money Penalties;
- Involuntary Liquidation;
- Conservatorship;
- Removal and/or Prohibition;

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<sup>66</sup> This is an action to withhold or allow conditional approval as part of the approval process because of a regulatory compliance or safety and soundness issue. This tool is available when the credit union is seeking fixed asset waivers, member business loan waivers, field of membership expansions, etc. Rescinding previously approved waivers due to safety and soundness issues is considered "regulator leverage." See [Supervisory Letter 10-04](#).

- Termination of Insurance and/or Revocation of Charter; and
- Some Prompt Corrective Action related actions, such as ordering a new election or dismissing a director or senior officer (refer to [Chapter 10](#) PCA).

### 3. Document of Resolution (DOR)

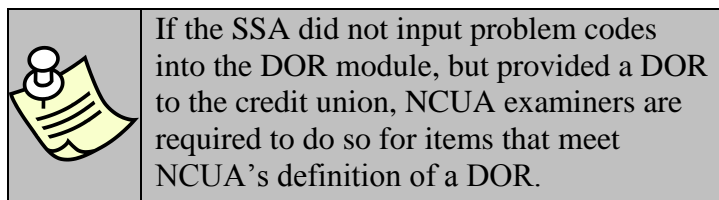
The AIRES DOR module enhances the administrative record as it improves the tracking and reporting of unresolved DOR items. Reports generated from this data summarize and track problem areas to highlight the resolution of outstanding problems. The [AIRES 2005 Manual](#) addresses the proper use of the DOR module. Examiners will make full use of the DOR module.

NCUA requires (by the lease agreements) State Supervisory Authorities (SSAs) who use NCUA issued laptops to use the AIRES program, and specifically the DOR module. During the course of WCC 26 reviews, NCUA examiners will add any problem codes (and associated corrective action) needed beyond those input by the SSA as directed in [Chapter 3, Section 5D](#).

#### A. Examiner Responsibilities

In order to ensure a full administrative record of problem areas, examiners will:

- Create DOR items and assign problem codes using the DOR module in AIRES
- Ensure DOR items are consistent between the DOR module and the DOR.



- Require credit union management to submit a written action plan, within 30 days of receipt of the official examination report, if they do not agree to the DOR or adopt the DOR at the joint conference. If communication and negotiation efforts are unsuccessful and the DOR is not adopted, examiners will require management to provide an alternative resolution plan and note management's failure to adopt the DOR in the Confidential Section. Elevated administrative action will be used if management's action plan is insufficient to address the problem(s) and the problem(s) remain unresolved.

## B. Review of Outstanding DOR Items

Recurring or unresolved problems are continually identified as leading to credit union failures and losses to the NCUSIF. Examiners must ensure that items significant enough to be included in a DOR are resolved in a timely manner. The following conditions apply to all credit unions with recurring or unresolved DOR items, regardless of CAMEL Code:

- Ensure all prior examination DOR items are properly noted as resolved, unresolved, or no longer applicable, and appropriately documented within the DOR module.
- Ensure repeat problem areas are properly noted with accurate comments and accurate dates of identification. When the original identification date is used for repeat DOR items, examiners will ensure the corrective action is the same as the previous DOR (not necessarily the wording – but the type of corrective action).
- Examiners will document credit union officials' failure to adequately resolve problems by placing an asterisk beside the repeat DOR item and footnote it with the following statement:

“This is either a repeat or carry-over DOR. Please see the DOR Status Update document for specific information on individual DOR items.”

- When credit unions have recurring or unresolved DOR items, examiners must consider the quality of management and weigh management's failure to resolve problems in the management CAMEL component and overall composite ratings.
  - If a credit union fails to take corrective action within the timeframe stated in the DOR, the credit union will be required to submit a written response to the examiner. This applies to all credit unions regardless of CAMEL code. If the credit union fails to take the corrective action agreed to at the last examination/supervision contact, examiners will document in the DOR Comments and Status Section of the DOR Module why management failed to take corrective action. If additional documentation is needed beyond what is provided to the credit union in the DOR Status Report or other open sections of the report, the Confidential Section may be used.
- If the credit union fails to address outstanding DOR items, the examiner will recommend additional enforcement action, such as a Regional Director Letter (RDL), Letter of Understanding and Agreement (LUA), or Preliminary Warning Letter (PWL). If the supervisor does not concur with additional enforcement action, examiners will document the rationale in the Confidential Section. Examiners will include the nature of the problem, agreements to correct the problem, their supervision plans, and the reason no additional enforcement action was pursued.

## C. DORs Not Adopted

Examiners will work with credit union management to develop corrective action plans. However, if officials do not adopt the DOR or a specific corrective action plan at the exit meeting or joint conference, examiners will document the officials' disagreement or inaction using the following footnote:

“These plans for action, although not approved by the credit union officials, are recommended to correct the area of concern. The officials have agreed to review the plans and to notify the Regional Director, National Credit Union Administration, (enter appropriate address), by (enter date), of the actions to be taken.”

#### **D. Reporting Identification Date for Problem Codes**

Examiners will input all problems meeting the criteria for a DOR item into the AIRES DOR module for problem code tracking purposes. The AIRES DOR module and corresponding problem codes are to track repeat problems and DOR corrective action items, not necessarily continued areas of concern.

Examiners will complete the problem code area in the AIRES DOR module, including the date the problem was first identified. The problem code and associated date will be specific to the problem and not just the problem area or risk factor. When completing the problem code areas in the AIRES DOR module, examiners will list the effective date the specific problem was originally identified.

When a problem was identified in the past, but was resolved and remained resolved for a period of time (at least 1-2 contacts) examiners should not use the original date identified, but code it as a new problem. Examiners should ensure they are recording the corrective actions taken to resolve specific problems and not combine similar problems as an ongoing problem.

For example, a small credit union may have had internal control problems for 10 years. NCUA needs to track whether the credit union is complying with the specific DOR corrective action plans issued at each exam. At the 06/30 examination, the examiner issued a DOR corrective action plan to cross train employees and increase segregation of duties. When the examiner performs a follow-up examination effective 12/31, the examiner finds the credit union is in compliance with this corrective action plan and the examiner should show this DOR item as resolved. During the 12/31 follow-up examination, the examiner issues a DOR corrective action plan for the supervisory committee to expand their review area. The date identified for this DOR item is 12/31 since it is a new problem with a new corrective action plan. However, this does not mean that internal controls are not an ongoing problem in this case. Examiners should acknowledge this and expand the scope as necessary, draft the DOR to address the root cause of the problem, or reflect the ongoing risk in the risk ratings and CAMEL codes.

Credit unions that have a history of similar or the same problems, even if there are long gaps between them, may warrant expanded review of that area or a DOR to address the

root cause of the problem. Recurring problems are an indication that the root problem needs to be addressed. For example, if an examiner writes a DOR to fund the Allowance for Loan and Lease Loss (ALLL) account and determines at a follow-up contact, the officials properly funded the ALLL account, this DOR should be marked as “resolved”. If the examiner notes at the next examination or contact that the ALLL is again underfunded, the examiner should develop a new DOR, with a new identification date, that addresses the root cause of the underfunded ALLL (e.g. inadequate methodology, no internal controls to ensure the expense is recorded, etc.).

When a credit union has partially complied with a DOR item, the examiner must determine if the remaining corrective actions should still be included in the DOR. If an examiner determines it does not need to remain in the DOR, the examiner will mark the DOR as resolved; otherwise, the examiner will mark the DOR item as unresolved and carry forward with the same date identified. If the examiner wishes to re-write the DOR corrective action plan, they should mark it as resolved, noting in the comment section of the DOR module that only part of the DOR corrective action plan has been resolved, and then create a new DOR corrective action plan to address the remaining problems with the original date identified.

#### **E. Process for Requiring a Credit Union to Cease an Activity**

Examiners will use the process below when issuing DORs that require a credit union to cease or suspend an activity.

- a. Examiners will obtain SE approval and document approval or disapproval in the Confidential Section when issuing DORs that require the credit union to cease an activity. Depending on the severity of the situation, escalated administrative action (RDL, LUA, C&D, etc.) may be necessary.<sup>67</sup>
- b. The DOR will clearly outline the steps the credit union must take to resume the activity.
- c. Based on the timeframe for completion provided to the credit union, examiners will identify when they will perform a follow-up contact (on or off-site) to determine if the credit union has complied with the DOR item. This time should be included in the “Plans and Budget” tab of the Exam Scope Module.
- d. The examination report will instruct the credit union to contact the Regional Director in writing when they have taken the steps outlined in the DOR item and want to resume the activity. The Regional Office will then notify the examiner and SE.
- e. After the credit union has informed NCUA they are in compliance with the DOR, examiners will perform a contact (on or off-site) within 120 days of notification from the credit union, to assess the credit union’s compliance with the DOR and whether the

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<sup>67</sup> For example, if a credit union has placed a large percentage of their assets in member business loans in a two-month period without adequate controls, policies, or procedures, a Cease and Desist order may be warranted in addition to a DOR.

DOR can or should be lifted. The ARD may approve exceptions to the 120-day follow-up requirement.



- f. Examiners will complete an AIRES upload and issue a report to officials notifying them of whether they have met the requirements to resume the activity. If the credit union has not adequately corrected the problem(s), examiners will outline the remaining steps the credit union must take to resume the activity.

The above process does not prohibit the examiner from issuing DOR corrective action items to address the residual risk of the activity with timeframes for completion that correspond with the examiner's supervision plan.

## **F. Marking DOR items as No Longer Applicable (NLA) in the DOR Module**

There may be instances when an examiner will need to mark a DOR item as NLA rather than "Resolved" or "Unresolved". Examiners will not use NLA if the credit union has resolved the problem. Examiners must provide a comment when marking an item as "NLA".

An example of when it may be appropriate to use NLA:

- The DOR required the credit union to perform due diligence on a new indirect lending program. When the examiner returns, the credit union has discontinued this program.

## **G. Quality Control**

E&I will periodically review reports and sample examinations to ensure compliance. E&I will notify the regions of any long-standing problems and DOR items. Regions are responsible for following up with field staff.

## **4. Regional Director Letter (RDL)**

An RDL is a tool to use when a credit union has serious and/or persistent problem areas not being resolved through field supervision alone. Examiners will ensure they fully address the issues through the examination process first, but a letter from the RD is an option to further emphasize the areas of concern. [Appendix 11-A](#) is a sample letter.

### **A. Examiner Responsibilities**

- Discuss the recommendation for an RDL with the supervisor.
- Document the need for the RDL in the Confidential Section.
- Address the primary areas of concern, corrective actions, expectations, and required response(s).

- Be direct, concise, and clear with the draft letter. As a general guideline, RDLs will not exceed two pages in length.
- Write from the perspective of the RD and with the appropriate official audience in mind.
- Direct the credit union's board of directors to respond in writing to the RD with a copy to the examiner. Examiners are responsible for all follow up to ensure the credit union's response is timely and appropriate.
- Indicate the recommendation of an RDL in the Examiner's Comments section on the Completion Information tab of the Examination Management Console (EMC) in AIREs.
- E-mail the draft RDL to the supervisor for review and approval within three business days of the contact completion date. The supervisor will review the report to ensure the RDL is appropriate and fully supported. The supervisor will then forward it to their region's DOS mailbox within seven business days from the contact completion date.
- If the examiner does not include the required notification for downgrades/upgrades to a CAMEL 3, 4, or 5 in an exam report (as discussed in [Chapter 1](#)), the examiner will process an RDL through the supervisor (and then follow normal processing through the Regional Office) to provide the credit union with the notification. This would only occur under a rare circumstance with justification documented in the Confidential Section ([Appendix 11-B](#), [Appendix 11-C](#) (would be used on an exception basis), and [Appendix 11-D](#)).

## **B. Division of Supervision Review**

- Division of Supervision will review all draft RDLs and prepare them for Regional Director signature.
- DOS may make minor modifications to these letters, but if it becomes necessary to make major changes to the content (e.g., deleting whole paragraphs, adding new or relevant information, changing the original intended message), DOS will contact the supervisor for concurrence with the changes or will return the draft directly to the supervisor for revision.
- DOS will mail (via expedited mail delivery service) the RDL to the board chairperson using the credit union's address or board chairperson's home address (and copy the CEO as appropriate). In special cases, DOS may mail the RDL to each board member's home or the supervisor may determine if delivering the RDL in person is appropriate.
- If the Regional Director or DOS decides not to issue an RDL, DOS will discuss the decision with the field supervisor, who will then discuss it with the examiner.

## **5. Letter of Understanding and Agreement (LUA)**

An LUA is a document listing the credit union's specific material problems and the corrective actions necessary to resolve the problems. The LUA demonstrates to the officials the problems are a major concern to NCUA and formally requests the officials agree to the listed actions in lieu of NCUA taking formal administrative action (assuming it is an unpublished LUA as a published LUA is a formal administrative action). The LUA will identify the areas of concern and the necessary corrective actions. Examiners will ensure LUA directives and timeframes are clear, specific, measurable, and easily understandable. No LUA will have a specific termination date unless the LUA is drafted in conjunction with a newly chartered credit union and not as a result of significant problems.

An examiner's recommendation to issue an LUA typically needs to be based on an examination, follow-up examination, or onsite supervision contact supported by an AIRES upload. Examiners will meet with key staff, officials of the credit union, and the SSA (in the case of joint contacts) during the examination or follow-up examination to develop an LUA.

The examination or supervision report must support all problems or conditions listed in the LUA. [Supervisory Letter No.10-04](#) is a resource for examiners to refer to when preparing LUAs and other administrative actions. Refer to the template in [Appendix 11-E](#) for unpublished LUAs. For a published LUA template, refer to [NCUA Instruction 4820 - Enforcement Manual](#). OGC is available to assist in preparing, reviewing, and negotiating any LUA should such assistance be desired and requested by the Regional Office.

### **A. Field Responsibilities**

- Examiners will provide adequate supervision to the credit union before recommending issuance of an LUA. The LUA will not contain new information management has not received in the examination or supervision report.
- Examiners will draft an LUA for all CAMEL Code 4 credit unions unless they have proposed or issued another type of administrative action, or they obtain ARD concurrence for not developing an LUA. Examiners will document their recommendation for not issuing an LUA in the Confidential Section.
- Examiners will draft an LUA for a single condition or emergence of a severe condition in a CAMEL Code 3 credit union if it can prevent the credit union from becoming a CAMEL Code 4 or 5.
- Examiners will document supervisor approval with the LUA in the Confidential Section as required in [Chapter 1](#).

### **B. Additional Considerations for FISCUs**

In the case of a FISCU insurance review, examiners will invite the SSA to help draft the LUA, participate in meeting with key officials, and attend the joint conference. Likewise,

examiners will allow the SSA three business days to review and approve the final draft before submitting the LUA to the officials.

LUAs initiated and issued by the SSA often include an Regional Director signature line. If an SSA is issuing an LUA and requesting an RD signature, field staff will still be involved in the development of the LUA and a DOS quality control review will still occur. The NCUA Examiner-in-Charge will work with the SSA Examiner-In-Charge to develop the content, and the supervisor and DOS will review as expediently as possible. The SSA Director signs the document first and then sends the three copies to the RD for signature and two are returned to the SSA for issuance and their file.

### **C. Non-Published LUA**

A non-published LUA is more difficult to enforce than a published LUA. NCUA would have to show that any violations of the unresolved items in the LUA were themselves unsafe or unsound practices or violations of statute or regulation. A non-published LUA must clearly state the LUA will not be published.

### **D. Published LUA**

A published LUA is an enforceable document and a formal administrative action. The RD will determine which LUAs will be published based on the supervisor and examiner's recommendation. OGC and E&I concurrence is required for all published LUAs. A published LUA must clearly state the LUA will be published.

Refer to [NCUA Instruction 4820 - Enforcement Manual](#) for more information on published LUAs. Recent published LUAs can be found on NCUA's [website](#).

### **E. Adding to or Modifying an Existing LUA**

Examiners will develop addendums to LUAs ([Appendix 11-H](#)) in select cases due to unforeseen circumstances requiring a modification to the original LUA. Unforeseen circumstances may include strikes, natural disasters, etc.

- Examiners will follow normal LUA processing procedures when developing addendums.
- DOS will consult the OGC when examiners prepare an addendum to a published LUA.

Examiners will prepare a revised LUA, versus an addendum, in situations when new problems emerge or the original LUA or timeframes are no longer appropriate. There will be a supervision contact report that supports the need for the revised LUA. Revised LUAs will incorporate, in the first paragraph, language indicating the current LUA replaces and cancels the previously issued LUA.

### **F. Procedures for Issuing an LUA**

Examiners will ensure all significant concerns and corrective actions outlined in the LUA are documented in the DOR module. The LUA will address the most significant concerns identified in the DOR; it will not necessarily be an exact duplicate. However, an item in an LUA must be recorded in the DOR module and flow through the DOR either (1) at a prior contact or (2) at the same contact the LUA is issued. See the illustration in [Appendix 11-M](#).

LUAs may either be issued/signed at the joint conference, or at a subsequent meeting specifically for the LUA signing after the joint conference and close of the examination. If an examiner opts to leave the exam open to issue the LUA at the joint conference, requesting a waiver of the 60-day completion requirement (up to 90 days) for processing an LUA is justifiable.

- Examiners will obtain supervisor concurrence and document agreement in the Confidential Section as required in [Chapter 1, Section 9](#).
- Examiners must discuss the intent and the preliminary content of the LUA during the preliminary meeting with management in advance of signing the LUA. Examiners and their supervisor will notify management the issuance of an LUA is subject to review by the Regional Director.
- Examiners will draft an LUA and email it to their supervisor no later than three business days after completing the contact.
- Supervisors will review the LUA and make a recommendation to either issue the LUA or not. The supervisor will notify the appropriate Associate Regional Director of all LUAs to be issued regardless of asset size of the credit union.
- Supervisors will forward the draft LUA to the region's DOS mailbox for processing and Regional Director approval within seven business days from receiving the draft LUA from the examiner.
- DOS will discuss all material changes to the LUA with the field supervisor. DOS will return the final approved version of the LUA to the supervisor by e-mail, or by other means as appropriate, for delivery to the credit union. DOS will work with the supervisor and examiner to review the draft LUA in a mutually agreeable timeframe.
- Examiners will send an electronic copy of the final approved LUA to the officials, via ZixMail, prior to the signing meeting. Examiners will allow officials a minimum of two business days to review the LUA before they sign it. Examiners will print a minimum of two copies<sup>68</sup> of the final approved LUA and present it to the officials in the manner described below in Section G. If a quorum of directors signs the LUA, it is considered to be accepted by the board.

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<sup>68</sup> Examiners will have two copies of the LUA ready for signature. DOS and the credit union will receive the original signed copies. The supervisor and the examiner will receive a scanned electronic copy (from DOS) for their records. In the case of FISCUs, the Regional Office will decide if a third original copy is necessary.

## **G. Delivering an LUA**

- Examiners and the supervisor will deliver the LUA to the credit union at a meeting of the board of directors. The supervisor will give the Associate Regional Director advanced notice of when the LUA will be delivered and the supervisor will attend all joint conferences where the examiner presents an LUA to officials. For federally-chartered credit unions, examiners will document the supervisor's attendance in the Confidential Section of the examination report. For state-chartered credit unions, examiners will document the supervisor's attendance in the WCC 26 Review or memo summarizing the results of the joint examination.
- Examiners will arrange for delivery of the LUA as soon as possible, but within 14 business days after receipt of the final approved version.
- Examiners will conduct the meeting and explain the LUA.
- If the officials refuse to sign the LUA, examiners will prepare a report documenting the refusal and recommend a course of action, such as a Preliminary Warning Letter.
- After meeting with officials, examiners will collect all of the signed LUAs to submit to the Regional Office for Regional Director signature.

## **H. Delivering the Final Signed LUA**

- Within three business days following the LUA meeting, examiners, through their supervisor, will send the original signed LUA copies (minimum of two) to DOS for the RD to sign.
- After the RD signs the LUA, DOS will mail one of the original signed LUA copies to the credit union with the RDL cover letter ([Appendix 11-F](#)). DOS will maintain the other original signed LUA copy in the Regional Office's charter file and an electronic copy (scanned copy with signature) on the DOS drive.
- DOS will scan and email electronic copies of the signed LUA to the examiner and their supervisor. In the case of a jointly issued LUA, DOS will mail a copy of the signed LUA to the SSA (or an original third signed copy if the Regional Office preferred the examiner to obtain a third signed copy).
- In the situation where an LUA is issued and the credit union was downgraded to a CAMEL 4 or 5, a Regional Director Letter acknowledging the LUA and downgrade may be appropriate ([Appendix 11-D](#)). The RDL acknowledges the LUA, includes a brief synopsis of the problems, and notes the requirements of [NCUA Rules and Regulations](#) §701.14 regarding the selection of officials and senior management for "troubled" credit unions.

## **I. Supervision Contacts for Credit Unions with LUAs**

Frequency of examinations, follow-up examinations, and onsite supervision contacts is driven by the credit union's CAMEL ratings and overall risk to the NCUSIF. Examiners will consider any outstanding administrative actions when planning supervision and assigning the CAMEL ratings. If examiners encounter a credit union with an outstanding administrative action (and associated risk), and the risk is not reflected in the CAMEL ratings (which drive the frequency of supervision), they will discuss with their supervisor and plan supervision accordingly.

Unless there are extenuating circumstances, and approved by the Associate Regional Director, supervision of credit unions with outstanding administrative actions will be in line with national policy for CAMEL 3, 4, or 5 credit unions.

During the time in which an LUA is in place, examiners will:

- Prepare and distribute the examination or supervision contacts reports in the same manner as other examinations and supervision contacts.
- Document compliance with the LUA in the Status Update during each contact. The status of each item will be listed as completed, not completed, or partially completed. Include comments to support completion status.
- Document recommendations for future action such as continue, modify, terminate the LUA, or proceed with elevated or formal administrative action.
- Recommend removal of the LUA during a follow-up examination or regular examination, if the officials have corrected the problem areas. The examiner will prepare a draft letter for the Regional Director's signature explaining why they recommend removal of the LUA.
- Recommend elevated administrative action if the officials have not corrected the problem areas within the timeframes outlined in the LUA. This could be formal action such as a published LUA, Cease and Desist Order, Civil Money Penalty, Involuntary Liquidation, etc. Refer to the [NCUA Instruction 4820 - Enforcement Manual](#) for processing procedures of formal administrative actions.
- Document the existence of an LUA within AIRES (within the "Administrative Tracking" section located on the "Completion Information" tab of the Exam Management Console).

## **J. Terminating an LUA**

When the credit union meets the specific performance standards outlined in the LUA, examiners will recommend to the RD to terminate the LUA. Examiners will not report orally or in writing to the credit union that the LUA is terminated prior to RD approval. Examiners may recommend the termination of an LUA only after an examination or onsite



contact supported by adequate work papers showing the credit union has corrected the problems cited in the LUA.

When conditions warrant the termination of an LUA, the examiner will prepare a draft LUA removal letter ([Appendix 11-H](#)) to the credit union explaining why the RD is removing the LUA and forward the letter to the supervisor with an explanation in the email supporting their recommendation to terminate the LUA. After review, the supervisor will forward the draft letter to DOS Mail. DOS will review and process the letter to the credit union for Regional Director signature. NCUA will consult with the SSA for termination of joint LUAs.

## **6. Preliminary Warning Letters (PWL)**

Examiners will draft a PWL when a credit union's problems are serious and/or persistent and a credit union's board is unwilling to sign an LUA. A PWL will support formal administrative action such as a published LUA or C&D Order.

A PWL is a warning of potential formal administrative action if corrective action is not taken. If formal administrative action is taken, then the PWL is automatically removed and all action items in the PWL will be incorporated into the formal administrative action. There may be rare instances where both a PWL and a formal administrative action are necessary to address separate supervisory concerns.

Examiners will only recommend to their supervisor to issue a PWL as a result of a regular examination, follow-up examination, or onsite supervision contact supported by an AIRES upload. [Appendix 11-I](#) (a BSA specific PWL) and [Appendix 11-J](#) are two PWL templates.

### **A. Field Responsibilities**

- Obtain supervisor and ARD concurrence for the PWL prior to preparing the letter.
- Examiners will document supervisor concurrence on the PWL in the Confidential Section as required in [Chapter 1](#).
- Examiners will e-mail the draft PWL to the supervisor for review and approval within three business days of the examination/supervision completion date. The supervisor will review the report to ensure the PWL is appropriate and supported. The supervisor will then forward it to their region's DOS mailbox within seven business days from the examination/supervision completion date.

### **B. Content of a PWL**

The PWL will be written from the perspective of the RD and include:

- A statement of impending administrative action by NCUA.
- The following wording where the primary problem area is poor management:



“Your credit union is operating in an unsafe and unsound manner for which substantial, immediate, and corrective action must be taken. It is the board of directors’ responsibility, as the body providing general direction and control for the credit union, to take necessary corrective actions.”

- A list of the serious area(s) of concern and cite of the Federal Credit Union Act or Regulation violated.
- The required actions and timeframes for resolving the area(s) of concern.
- Direct, concise, and clear language.

#### **C. Division of Supervision Review**

- DOS will review the PWL for appropriateness and process for RD approval.
- DOS will discuss all material changes with the supervisor.

#### **D. Delivering a PWL**

The supervisor will determine whether to hand deliver or mail the PWL (depending on the severity of the issues).

- If the PWL is being hand delivered:
  - The supervisor will notify DOS of the planned meeting date so the PWL is dated accordingly. The date will be approximately two to three weeks from the date field staff submits the draft PWL to DOS.
  - Upon approval, DOS will mail one original copy of the PWL signed by the Regional Director directly to the supervisor for hand delivery and scanned copies for the examiner and supervisor records.
  - The examiner and the supervisor will deliver the PWL onsite to discuss the contents of the PWL, usually at a formal meeting with the credit union’s board of directors.
  - Following the meeting, the examiner will distribute the original, signed copy of the PWL to the credit union officials.
  - The examiner and supervisor will maintain scanned copies of the signed PWL.
- If the PWL is mailed:

- DOS will mail the PWL (via expedited mail delivery service) to the board chairperson using the credit union's address or board chairperson's home address with signature confirmation, and copy the CEO as appropriate. In special cases, DOS may mail the PWL to each board member's home.
- DOS will provide scanned copies to the examiner and supervisor for their records.
- The examiner and supervisor will maintain scanned copies of the signed PWL.

#### **E. Supervision Contacts for Credit Unions with PWLs**

As described in the LUA section, the frequency of examinations, follow-up examinations, and onsite supervision contacts is driven by the credit union's CAMEL ratings and overall risk to the NCUSIF. Examiners will consider any outstanding administrative action when planning supervision assigning the CAMEL ratings. If an examiner encounters a credit union with an outstanding administrative action (and associated risk) and the risk is not reflected in the CAMEL rating (which drives the frequency of supervision), they will discuss with their supervisor and plan their supervision accordingly.

Unless there are extenuating circumstances, and approved by the Associate Regional Director, supervision of credit unions with outstanding administrative actions will be in line with national policy for CAMEL 3, 4, and 5 credit unions (perform a follow-up examination at least every 120 or 180 days (from completion date to completion date)). Examiners will:

- Prepare and distribute the examination or supervision contact reports in the same manner as other examinations and supervision contacts.
- Document compliance with the PWL in the Status Update during each contact. The status of each item will be listed as completed, not completed, or partially completed. Include comments to support completion status.
- Document recommendations for future action such as continue, modify, terminate the PWL, or proceed with elevated or formal administrative action. *Refrain from recommending the PWL be reissued, rewritten, or allowed to remain outstanding for long periods (usually no longer than 12 months).*
- Recommend removal of the PWL when it is confirmed during a follow-up examination or regular examination the officials have corrected the problem areas. The examiner will prepare a draft letter for the Regional Director's signature explaining why they recommend removal of the PWL.
- Recommend escalated administrative action if the credit union has not corrected the problem areas within the timeframes outlined in the PWL. Escalated administrative action may include a published LUA, Cease and Desist Order, Civil Money Penalty,

Involuntary Liquidation, etc. Refer to the [NCUA Instruction 4820 - Enforcement Manual](#) for processing procedures for Civil Money Penalties, Involuntary Liquidations, Conservatorships, etc.

- Document the existence of a PWL within AIRES under “Other Administrative Action” (within the “Administrative Tracking” section located on the “Completion Information” tab of the Exam Management Console).

## **F. Terminating a PWL**

When the credit union meets the specific performance standards outlined in the PWL, examiners will recommend termination of a PWL. Examiners will recommend the termination of a PWL only after they complete an examination or onsite contact supported by adequate work papers showing the credit union has corrected the problems cited in the PWL.

When conditions warrant the termination of a PWL, the examiner will prepare a draft PWL removal letter ([Appendix 11-K](#) and [Appendix 11-L](#)) to the credit union explaining why the RD is removing the PWL and forward the letter to the supervisor with an explanation in the email supporting their recommendation to terminate the PWL. After review, the supervisor will forward the draft letter to DOS Mail for review and processing for RD signature.

## **7. Initiating Formal Administrative Actions**

Before deciding to take formal administrative action, examiners and their supervisor must clearly understand the nature of the credit union's problems and why any previous attempts to resolve the problems failed. Examiners are responsible for ensuring the administrative record presents a complete, factual, and fully documented history of the credit union's problems and the examiner's concerns about the credit union. Examiners will recommend formal administrative action after consulting with their supervisor. Prior to proceeding, the supervisor will discuss the action with the Associate Regional Director, who will receive concurrence from the Regional Director. It is critical that the field and region initiate communication early on in cases where formal administrative action is recommended.

Refer to [NCUA Instruction 4820 - Enforcement Manual](#) for the processing of formal administrative actions.

## **8. Special Assistance Cases**

Various types of special assistance are available to help resolve serious credit union problems. Refer to the [Examiner's Guide](#) and [NCUA Instruction 4820 - Enforcement Manual](#) for guidance on special assistance available.

## **9. Control Reports**

Control reports serve as a mechanism to ensure the agency has a robust examination program that is properly resourced and monitored for adherence to national examination and quality standards.

### **A. Regional Control Reports**

The region is responsible for maintaining record of all informal and formal administrative actions including, but not limited to, RDLs issued,<sup>69</sup> LUAs and PWLs. The report will include administrative actions newly issued, currently outstanding (with the exception of RDLs), and those canceled (when applicable) since the last report. The region will periodically evaluate the trends, appropriateness and effectiveness of administrative actions.<sup>70</sup>

### **B. E&I Control Reports**

E&I will routinely request reports from the regions and may periodically request a sampling of issued administrative actions for quality control purposes as part of an ongoing quality assurance process.

E&I will review regional activity as a means of tracking regional and national trends for resource, consistency, and policy formation purposes and will issue a semi-annual national summary of administrative actions.

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<sup>69</sup> The only types of RDLs the region is responsible for reporting are RDLs that are associated with an examination or supervision contact report and part of the administrative record.

<sup>70</sup> Until a national database/tool is developed, regions will continue to use reporting systems currently in place. Regions will ensure their current systems capture the requested information.

**Appendix 11-A**  
**Regional Director Letter**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed the [effective date] [credit union name] examination report prepared by Examiner [examiner's name]. The examination disclosed serious weaknesses in your credit union's internal controls, asset liability management, and risk based lending processes. As a result, your credit union received a CAMEL "3" rating. If you fail to take immediate corrective action, your credit union's financial condition may deteriorate. The examination report addresses the following areas, which are of particular concern to us:

**Internal Control Weaknesses**

Significant internal control deficiencies exist, such as the lack of Supervisory Committee interim internal audit review functions and lack of proper segregation of duties due to vacant key staffing positions. Multi-factor authentication is not in place for the home banking product to sufficiently protect member information and security. The information security policy does not fully comply with NCUA Rules and Regulation, Part 748, Appendix A and B. Enterprise wide disaster recovery/business continuity impact analysis and testing have not been performed and electronic payment system policies and security procedures are insufficient. The [bank name] reconciliations also contain numerous un-posted reconciling items.

**Asset Liability Management (ALM) Weaknesses**

Your ALM model generated unreliable shocked NEV and Income Simulation results to effectively manage your credit union, and your model has not been independently validated as to the reasonableness of your assumptions and the ALM reports generated.

ALM training is an area of significant concern as your model operator needs additional training to effectively operate your model.

In reviewing your ALM policy, Examiner [examiner's name] found your policy does not state the minimum acceptable base and shocked NEV ratio floors. Your liquidity policy has a minimum 2.5 percent liquidity ratio floor stated. In light of your seasonal cash demands, a more reasonable short-term liquidity ratio would be appropriate to ensure member service is not disrupted.

Persistent issues including insufficient or inaccurate Asset-Liability Management modeling and lack of agreed upon policy revisions were identified in prior contacts going back to [year].

Mr. John Doe  
Date  
Page Two

**Lack of Risk based Lending Risk Management**

Unsecured loans grew from \$8.4 million to \$18 million during the twenty-one months ending [date]. Outstanding D and E paper increased to \$8 million or 44 percent of your unsecured loans outstanding. You have not established lending limits, by credit tier, as a percentage of net worth, and you are not performing a net yield determination to analyze your loan portfolio's performance by grade of paper.

I understand Examiner [examiner's name] discussed these and other concerns with you and your fellow board members. The agreements reached are contained in the Document of Resolution. By [date], provide me with a written response to the items in the Document of Resolution and copy Examiner [examiner's name]. I encourage you and your fellow officials to take the actions necessary to resolve the concerns.

[For credit unions \$50 million and less, newly chartered (less than 3 years old) or low income designated consider including the following statement: In your efforts to resolve these concerns, you may wish to take advantage of programs offered by NCUA's Office of Small Credit Union Initiatives (OSCUI). OSCUI provides guidance and assistance to small, new, and low-income designated credit unions through four primary programs - Training, Grants and Loans, Partnerships and Outreach, and Consulting Services. More information is available from your examiner or at <http://www.ncua.gov/Resources/OSCUI>.]

Examiner [examiner's name] will return to your credit union by [date] to review your progress towards correcting the BSA and other operational deficiencies. Please contact him/her at [phone number] if you have questions.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 11-B

FISCU – Upgrade from Troubled Condition Status

NCUA did not participate. NCUA has already upgraded. State upgraded to a 3 or better, but notice of removal of troubled condition cannot be verified.

Date

Mr. John Doe  
Board Chairperson  
ABC Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

The [effective date] supervision report for your credit union, completed by Examiner [examiner's name], outlined the corrective actions you have implemented to improve lending and collection practices. I commend you and the board of directors on the progress you have made.

Previously, your credit union received notification it was subject to requirements under §701.14 of the National Credit Union Administration (NCUA) Rules and Regulations. As a result of your credit union's upgrade to a CAMEL "3" rating and removal from "troubled" status, you are no longer required to obtain approval for changes in officials or management personnel.

If you have any questions, please contact Examiner [examiner's name] through this office.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA

## Appendix 11-C

### FISCU – Notice of Troubled Condition

NCUA did not participate; NCUA concurs with SSA rating, but cannot confirm notice was given to FISCU

Date

Mr. John Doe  
Chairperson  
ABC Credit Union  
Address  
City, State Zip

Dear Mr. Doe:

The [effective date] examination identified your credit union as being in a “troubled condition” according to Sections 701.14 and 741.205 of the National Credit Union Administration (NCUA) Rules and Regulations. As a federally insured credit union in a troubled condition, you must follow specific procedures when changing officials and management personnel. You can find this information on NCUA’s website.

Areas contributing to the determination of your troubled condition status are:

- First major problem area – provide short description of the cause and effect of the problem.
- Second major problem area – provide short description of the cause and effect of the problem.
- Etc.

I urge the officials to take immediate and ongoing action to comply with the Document of Resolution from the [effective date] examination report.

You will find two enclosures with this letter. They will provide you with information regarding the requirements of Sections 701.14 and 741.205. It is imperative you comply. The two enclosures are:

- Notice of Change in Director or Senior Executive Officer
- Individual Application for Approval of Official

If you have any questions, please contact Examiner [examiner’s name].

Sincerely,

[                      ]  
Regional Director



[Office]/[WRITER'S INITIALS]

SSIC XXXX

Charter #

Enclosures

cc: SE

EX

SSA (when applicable)

## Appendix 11-D

### Regional Director Letter Downgrading CAMEL and Acknowledgement of LUA Agreement

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

I reviewed your credit union's recently completed examination report, prepared by Examiner (Your Name) with an effective date of (Examination Effective Date). I note the following major areas of concern:

- 1) First major problem area – provide short description.
- 2) Second major problem area – provide short description.
- 3) Etc.

I encourage the officials to take immediate and ongoing action to achieve the goals set forth in the examination report [*“and Letter of Understanding and Agreement” (if applicable)*].

As you know, your credit union is coded CAMEL 4 [or 5] as a result of your recent examination. Therefore, the (Credit Union's Name) Federal Credit Union is now designated in "troubled condition" per §212(f) of the Federal Credit Union Act and §701.14 of the National Credit Union Administration (NCUA) Rules and Regulations. You must follow specific procedures when changing officials and management personnel. You can find this information on NCUA's website. The procedures remain in effect until the credit union is upgraded to a CAMEL code 3 or better.

A Letter of Understanding and Agreement, signed on (Date signed by officials), sets forth the significant adverse conditions identified in the examination report and the agreements reached to resolve them. This agreement is closely monitored during subsequent examinations and remains in effect until it is canceled or replaced. Failure to comply with the agreement's terms and conditions is cause [*in the case of a non-published LUA, change “is cause” to “can be grounds”*] for taking more severe administrative actions against the credit union or its officials.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX

Charter #

cc: SE  
EX  
SSA (when applicable)

## Appendix 11-E

### Letter of Understanding and Agreement – Non-Published

**LETTER OF UNDERSTANDING AND AGREEMENT  
ISSUED BY AND BETWEEN  
THE NATIONAL CREDIT UNION ADMINISTRATION  
AND  
[NAME] FEDERAL CREDIT UNION**

This Letter of Understanding and Agreement (LUA) is made and entered into on [insert date] by and between [XYZ FCU] (hereinafter XYZFCU) a credit union organized under the laws of the United States of America and doing business at [insert address] and the National Credit Union Administration (NCUA).

[XYZFCU] is an insured credit union within the meaning of §101(7) of the Federal Credit Union Act, 12 U.S.C. §1752(7). As such [XYZFCU] is subject to the jurisdiction of the NCUA and NCUA's authority to initiate administrative enforcement actions against it pursuant to §206 of the Federal Credit Union Act, 12 U.S.C. §1786.

This LUA sets forth significant [describe the problems, e.g., adverse conditions, unsafe and unsound practices, regulatory violations] identified by NCUA as a result of its examination of [XYZFCU] with an effective date of [insert date], and the agreements and timeframes by the credit union's officials to resolve them. If left unresolved, these deficiencies may jeopardize the financial condition and/or operations of [XYZFCU]. By signing this LUA, the board of directors of [XYZFCU] hereby acknowledges that serious areas of concern exist and agrees to take the necessary actions set forth below to restore [XYZFCU] to a safe and sound condition.

In consideration of [XYZFCU] entering into this LUA, NCUA hereby agrees to refrain from recommending any formal administrative action in connection with the specific conditions addressed in this LUA, provided that [XYZFCU] and its officials make a sustained, effective, and good faith effort, as determined by NCUA in its sole discretion, to comply with all terms, actions and corresponding timeframes prescribed in this LUA.

In the event NCUA determines, in its sole discretion, that [XYZFCU] or its officials have failed to make a sustained, effective, and good faith effort to comply with the terms, actions and corresponding timeframes prescribed in this LUA, it is understood and agreed that NCUA may undertake appropriate administrative action as provided by the Federal Credit Union Act, 12 U.S.C. §1786, et. seq., including but not limited to, issuing an order to cease and desist, assessing civil money penalties or placing [XYZFCU] into conservatorship.

During the [date] examination conducted by the National Credit Union Administration (NCUA), Examiner [examiner name] identified adverse conditions and trends in the [XYZFCU]. If left uncorrected, these conditions and trends will continue to undermine the credit union's financial and operational stability. Specifically, the report identifies and addresses the following adverse trends and conditions:

1. **Recordkeeping:** The report identifies a continuing out-of-balance condition with your cash accounts. The [name of bank] Bank account has been out-of-balance since at least [date]. In addition, the general ledger account for “cash on hand” has not been reconciled since the [date] computer conversion.
2. **Negative Earnings:** The credit union posted a net loss of \$20,370 at year-end XXXX. The adjusted net loss is \$24,890 after NCUA adjusting entries listed in the examination report. The credit union has posted a net loss in four of the last five years. The primary causes for the net losses are high operating expenses, declining loan income, and provision for loan loss expense. Operating expenses, specifically salaries and benefits, are excessive in relation to total assets. The high amount of operating expenses is a primary reason for the lack of adequate net income. After examination adjustments, operating expense represented 100.44 percent of gross income.
3. **Business Planning:** The credit union does not have a viable business plan to evaluate the external and internal factors influencing business decision making. This evaluation includes financial planning, regulatory issues, your membership, competitive opportunities, and improved services. Your lack of business planning and strategic goal setting have contributed to your recordkeeping problems, high operating expenses, and declining financial position.

#### **AGREEMENTS AND TIME FRAMES**

1. The board of directors will correct all improper account number designations used in transfers of cash between teller cash, cash on hand, and the [name of bank] Bank checking account. This should be corrected no later than [date].
2. The board of directors will engage a qualified accountant to review, reconcile, and recommend any correcting entries to the affected cash accounts. This process will be completed by [date].
3. By [date], the board of directors will correct all recordkeeping deficiencies, as agreed in the Document of Resolution section of the [date] examination report. The board of directors agrees to oversee and maintain the credit union’s records in a current position and in accordance with the Accounting Manual for Federal Credit Unions. Financial statements will be completed by the 20th of each month.
4. The board of directors will ensure the manager receives training to operate the Integra-Sys computer system. This training may come from the vendor or from another credit union with experience and expertise in using the Integrasys Cubics Plus system. Training will begin by [date].
5. The board of directors will develop and approve a business plan and budget for the remainder of [year]. This plan and budget will include goals and strategies to increase income and reduce operating expenses. The board of directors must approve the business plan and budget by [year]. Operating results will be monitored on a monthly basis. A similar plan and budget with goals and strategies for [year] will be prepared and approved

no later than [year]. The board of directors will review net income and operating expenses in relation to the budget on a monthly basis.

6. The board of directors will reduce operating expenses as a percentage of gross income per the following schedule:

- Not more than 93 percent of gross income by [date]
- Not more than 92 percent of gross income by [date]
- Not more than 91 percent of gross income by [date]

7. The results of the credit union's operations will generate net operating income equivalent to at least an annualized 0.40 percent return on average assets for the second, third and fourth quarters of calendar year XXXX. Net operating income will be determined after funding of the Allowance for Loan Loss account, operating expenses, and dividend expenses. The following minimum quarterly earnings will be achieved on an annualized basis.

A. Year XXXX

June 30, XXXX  
September 30, XXXX  
December 31, XXXX

B. Minimum Quarterly Return on Average Assets  
(annualized)

0.40 percent  
0.40 percent  
0.40 percent

C. Year XXXX

March 31, XXXX  
June 30, XXXX  
September 30, XXXX  
December 31, XXXX

0.50 percent  
0.50 percent  
0.60 percent  
0.60 percent

For the purpose of this Agreement, net operating income is defined as the income remaining after accounting for all operating expenses, including provisions for Full and Fair Disclosure, as outlined in Part 702.402 of the NCUA Rules and Regulations, dividends on all shares, and is exclusive of non-operating gains.

8. The Treasurer will provide the following to Examiner [examiner name] by the 15th of each month:

- a. Board Minutes;
- b. Monthly Financial Statements;
- c. Summary of delinquent loans by category of delinquency, including the 1 to 59 days delinquent list and the list of repossessed assets;
- d. ALLL Methodology Worksheet;
- e. Share and Loan Trial Balance Summary;
- f. Status report reflecting your compliance with the [date] Document of Resolution;
- g. New or revised policies; and
- h. Any other financial data requested by the NCUA RD.

**Publication.** This LUA will not be published.

**Term.** This LUA shall remain in effect until terminated in writing by mutual agreement of [XYZFCU] and the NCUA, or until it is replaced by a subsequent LUA between the parties.

The following individuals, as authorized by the board of directors of the credit union, indicate they understand and agree with the contents of this Agreement by affixing their signatures below. The officials understand by signing this Agreement, they must make a sustained and conscientious effort to resolve the conditions and trends cited.

**AGREED TO AND ACCEPTED by the undersigned on behalf of XYZFCU and the NCUA**

**For the XYZ Federal Credit Union**

_____	_____
Chairperson	Date

_____	_____
Vice-Chairperson	Date

_____	_____
Treasurer	Date

_____	_____
Secretary	Date

_____	_____
Board Member	Date

_____	_____
Board Member	Date

**For the National Credit Union Administration:**

_____	_____
Regional Director	Date

_____	_____
Supervisory Examiner/DSA	Date

---

Examiner/PCO

---

Date

[region]/XXX:xxx  
FCU xxxxx-A10

cc: SE  
EX  
SSA (when applicable)

bcc: File FCU xxxxx-A10  
Reading File  
Administrative Action File  
SA



## Appendix 11-F

### Regional Director Letter – Cover Letter for Letter of Understanding and Agreement

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

Enclosed is the fully executed Letter of Understanding and Agreement (LUA) signed by you and your board members on [Date]. I am very concerned about the serious problems and adverse trends facing your credit union. I encourage you to lead your board in taking the actions necessary to carry out the agreements in this LUA.

If you need any assistance or guidance in complying with the LUA, please contact Examiner [examiner's name] at [phone number]. Examiner [examiner's name] will continue to visit your credit union and assess your progress.

Sincerely,

[  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #  
Enclosure

cc: SE  
EX  
SSA (when applicable)

[separate page]bcc: File XXXXX-XXX  
Reading File  
Administrative Action Database File (Add New LUA)  
SA xxxxx

**Appendix 11-G**  
**Addendum to Letter of Understanding and Agreement**

**ADDENDUM TO LETTER OF UNDERSTANDING AND AGREEMENT  
ISSUED BY AND BETWEEN  
THE NATIONAL CREDIT UNION ADMINISTRATION  
AND  
[NAME] FEDERAL CREDIT UNION**

This addendum amends item two and eliminates item three of the Letter of Understanding and Agreement (LUA), signed by the Regional Director on (date). All other items of the LUA remain in effect.

We are amending item number two as follows:

The Board of Directors will assure the credit union's operations will achieve a ratio of net income to average assets of, at least, one percent for the year-ending December 31, XXXX, and each year thereafter until the capital goals of the LUA are satisfied. For purposes of this Agreement, we define net income as all income remaining after accounting for all expenses including dividends on share accounts and the requirements for Full and Fair Disclosure as required by Section 702.3 of the NCUA Rules and Regulations.

**For the [Name] Federal Credit Union:**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

**For the National Credit Union Administration:**

\_\_\_\_\_  
Regional Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisory Examiner

Date \_\_\_\_\_

\_\_\_\_\_  
Examiner

\_\_\_\_\_  
Date

**Appendix 11-H**  
**LUA Removal Letter**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

Your [effective date] examination report, completed by Examiner [examiner's name], outlines the corrective actions implemented to rectify the issues and concerns in your Letter of Understanding and Agreement (LUA). I commend you and your board of directors on the progress you have made to correct noted concerns. As a result, I am removing your LUA.

I encourage you and your fellow officials to continue implementing corrective actions to resolve all concerns addressed in your examination report.

My staff will be in contact with you to review your progress on any remaining areas of concern. Please contact Examiner [examiner's name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     SE  
       EX  
       SSA (when applicable)

**Appendix 11-I**  
**Preliminary Warning Letter**

Date

Hand Delivered (if applicable)

Board of Directors  
[NAME] Federal Credit Union  
Address  
City, State Zip Code

Dear Board Members:

**Preliminary Warning Letter**

This Preliminary Warning Letter (PWL) provides formal notification to the board of directors prior to the National Credit Union Administration (NCUA) taking administrative enforcement action against the credit union as authorized by Section 206 of the Federal Credit Union Act. This PWL is necessary because of the failure of [credit union name] Federal Credit Union's board of directors to implement action to correct significant Bank Secrecy Act (BSA) violations noted in the [date] and the [date] examination reports.

Specifically, the board of directors has not complied with BSA requirements by failing to:

- Implement an adequate anti-money laundering program designed to identify and report transactions indicative of money laundering and other suspicious activity;
- Complete an adequately comprehensive enterprise-wide BSA risk assessment;
- Establish and implement adequate internal controls with respect to the BSA. This includes developing and maintaining a list of high-risk and moderate-risk members, and ensuring account activities of high-risk and moderate-risk members are reviewed and analyzed periodically;
- Develop and implement due diligence and account monitoring processes for business accounts based on your risk assessment of account activities; and,
- Perform independent testing of the BSA/anti-money laundering program, including suspicious activity reporting.

The regulations enacted by the Financial Crimes Enforcement Network (FinCEN) and the National Credit Union Administration to implement the BSA can be found in the Code of Federal Regulations at 31 CFR Part 1020 and 12 CFR Part 748. Under the authority of the U.S. Congress and FinCEN, NCUA is required to enforce compliance with the Bank Secrecy Act. It is imperative you become familiar with and fully comply with these regulations.

I expect management to implement corrective action to address the above violations no later than the dates detailed in the [date] examination report. Failure to comply could result in administrative enforcement against your credit union and/or its officials.

Please provide Examiner [examiner's name] with monthly written updates on the specific corrective actions you have taken to achieve full compliance with all BSA requirements. Please contact Examiner [examiner's name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     Board Chairperson, [NAME] FCU  
         CEO, [NAME] FCU  
         SE  
         EX  
         SSA (when applicable)

[separate page]bcc:    File FCU xxxxx-Group/District  
         Reading File  
         Administrative Action Database File

**Appendix 11-J**  
**Preliminary Warning Letter**

Date

Hand Delivered (if applicable)

Board of Directors  
[NAME] Federal Credit Union  
Address  
City, State Zip Code

Dear Board Members:

**Preliminary Warning Letter**

This Preliminary Warning Letter (PWL) provides formal notification to the board of directors prior to the National Credit Union Administration (NCUA) taking administrative enforcement action against the credit union as authorized by Section 206 of the Federal Credit Union Act. This PWL is necessary because of the failure of [credit union name] Credit Union's board of directors to implement action to correct unsafe and unsound conditions noted in the [date] examination report and [date] call report.

I am extremely concerned your credit union has not fully funded the Allowance for Loan and Lease Losses Account (ALLL) for at least the past four quarters. As a result of your failure to properly fund the ALLL, your credit union's financial statements are inaccurate and misleading. Section 202 of the Federal Credit Union Act requires you and your fellow board members to ensure your credit union's financial statements are accurate. It also authorizes NCUA to assess monetary penalties for each day in which misleading financial statements are not corrected.

As noted in the [date] Letter of Understanding and Agreement, you and your fellow board members need to evaluate the adequacy of the ALLL account and charge off non-performing loans in accordance with your credit union's loan charge-off policy. The [date] examination report called for you to fund the ALLL account by \$58,016 (\$10,471 for the loan to XXXX and \$47,545 for the loan to XXXX). You did not adjust the ALLL account on the [date], call report, to provide full and fair disclosure of your credit union's financial condition. Both the XXXX and XXXX loans were more than 12 months delinquent and have not demonstrated a payment history that would justify any other accounting treatment aside from fully reserving for losses in the ALLL account or charge off.

It is your fiduciary responsibility to evaluate and adequately fund your credit union's ALLL account. Therefore, I expect you to file an accurate [date], call report by [date]. With the ALLL properly funded, your credit union's net worth ratio will likely fall below 7 percent and your credit union will be subject to prompt corrective action under Part 702 of NCUA's Rules and Regulations. At that point, you will be required to submit a net worth restoration plan to my office by [date].

I expect management to implement corrective action to address the above concerns no later than the dates detailed in the [date] examination report. Failure to address the problems discussed in this letter will cast doubt on your willingness and ability to carry out your fiduciary responsibilities. If the board does not demonstrate sufficient progress towards correcting the credit union's serious problems, I will have no choice but to take administrative action against the credit union, which could include assessing civil money penalties against each of the officials.

Please provide Examiner [examiner's name] with written monthly updates on the specific corrective actions you have taken to achieve full compliance with all these requirements. Please contact Examiner [examiner's name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc:     Board Chairperson, [NAME] FCU  
         CEO, [NAME] FCU  
         SE  
         EX  
         SSA (when applicable)

[separate page]bcc:    File FCU xxxxx-Group/District  
         Reading File  
         Administrative Action Database File

**Appendix 11-K**  
**Preliminary Warning Letter Removal**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

Your [date] examination report, completed by Examiner [examiner's name], outlines the corrective actions implemented to improve compliance with the Bank Secrecy Act (BSA). I commend you and your board of directors on the progress you have made to correct noted concerns. As a result, I am removing your Preliminary Warning Letter (PWL).

Previously, you received notification you were subject to requirements under Section 748.2(c)(4) of the NCUA Rules and Regulations. You received a PWL, dated [date], 2010, indicating you had not obtained adequate BSA training of credit union staff and officials as required.

I encourage you and your fellow officials to continue implementing corrective actions to resolve all concerns addressed in your examination report, including mitigating loan losses and developing a formal written strategic plan.

My staff will be in contact with you to review your progress. Please contact Examiner [examiner's name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX  
SSA (when applicable)



**Appendix 11-L**  
**PWL Removal Letter**

Date

Mr. John Doe  
Board Chairperson  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

During the recent examination of your credit union, Examiner [examiner's name] noted a satisfactory level of improvement in your credit union's compliance with [GIVE DESCRIPTION]. Specifically, you met all of the requirements of the [PWL DATE] Preliminary Warning Letter (PWL). Therefore, I am releasing you from the terms of the PWL.

Accomplishment of the requirements outlined in the PWL decreases your credit union's [TYPE OF RISK] risk. I urge you and your fellow officials to continue your efforts to improve and maintain the long-term viability of the credit union.

Please contact Examiner [examiner's name] at [phone number] with any questions.

Sincerely,

[                      ]  
Regional Director

[Office]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

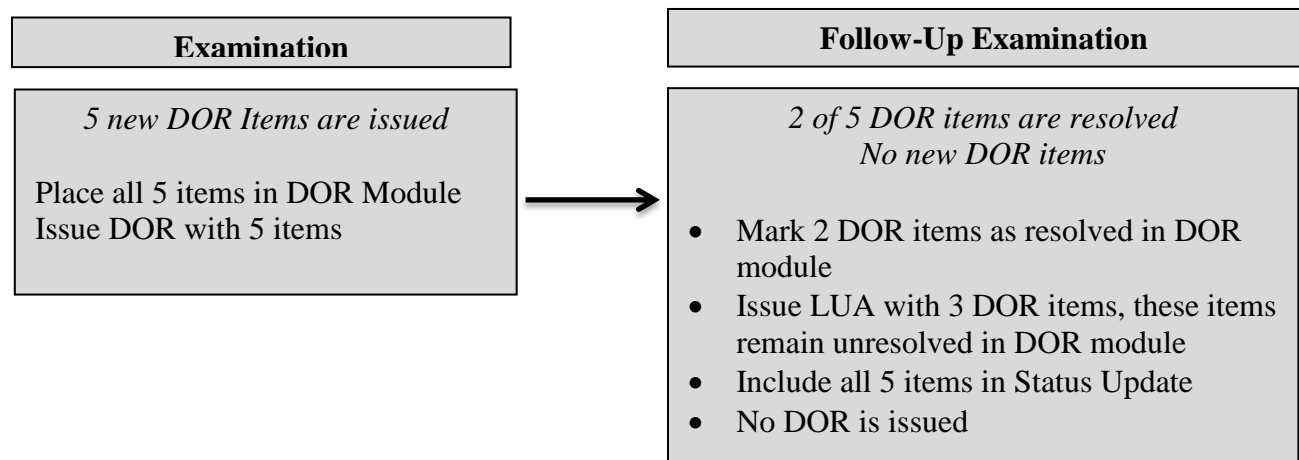
cc:     SE  
       EX  
       SSA (when applicable)

## Appendix 11-M

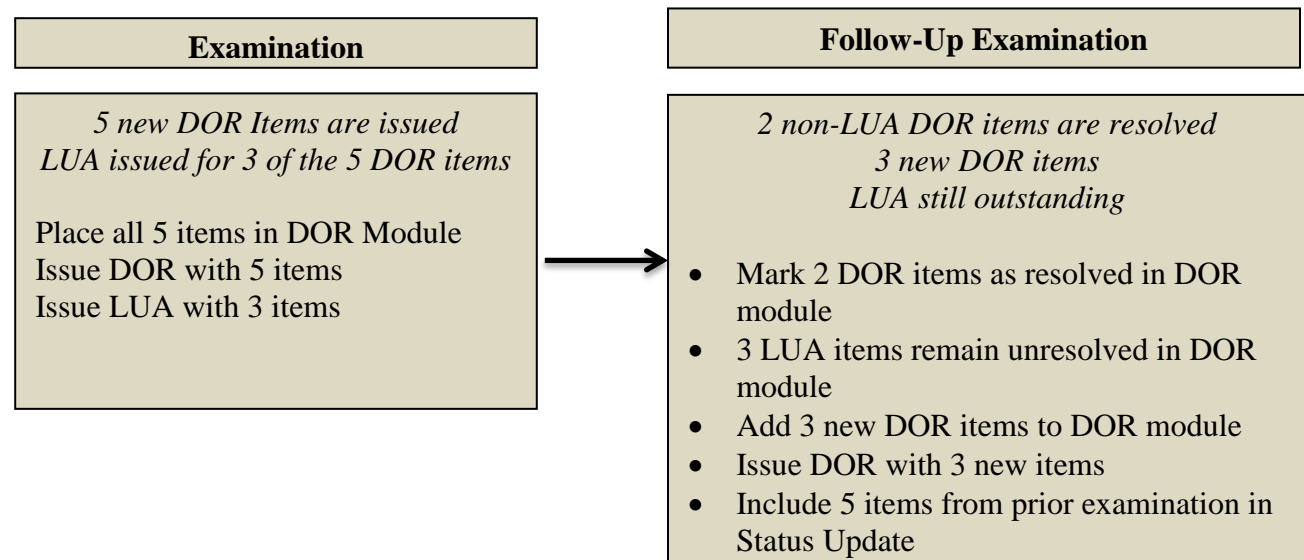
### DOR and LUA Problem Code Illustration

An item in an LUA must be recorded in the DOR module and flow through the DOR either (1) at a prior contact or (2) at the same contact the LUA is issued. The problem code in the DOR module should remain unresolved until the problem is resolved, regardless of whether the problem is outlined in the DOR or LUA. Below are two scenarios outlining the flow of items through the DOR module, DOR and LUA.

#### Scenario A



#### Scenario B



## Chapter 12 – Work Classification Code Definitions

Examiners use the following work codes on their weekly time reports. For any time codes with “AIRES” noted in the definition section, an AIRES upload must be used to report the time in the examination and supervision system. For any other program time codes, an AIRES upload is optional, as directed by regional management. See Section 3 for categorizing time for work or training associated with a Subject Matter Examiner (SME) designation and Section 4 for work codes that are specific to the Economic Development Specialists (EDS), and Section 5 for work codes that are specific to the Office of Consumer Protection (OCP).

### 1. Work Classification Codes

CLASSIFICATION	WCC	DEFINITION OF USE
Lending Specialists	05	Analysis of specialized loan programs. Time spent on specialized lending assignments by Lending Specialists not directly related to a specific credit union or credit union examination (e.g., <b>researching loan related topics, developing training materials and training staff, mentoring examiners, and answering examiner inquiries</b> ). <b>Charge RLS time spent on detail to E&amp;I to Detail to Central Office (WCC 43).</b>
Chartering and FOM Activities	06	Time spent collecting information, analyzing data, and recommending action on chartering and FOM changes, including community conversions and/or expansions, and underserved area expansion requests. Typically, this time is not associated with SCUP program activities.
Capital Market Specialist-Administrative Time	07	Capital Market Specialist time spent on investments and asset-liability management (ALM) issues. This pertains to time spent not directly related to a credit union (e.g., researching investment and ALM topics, preparing and analyzing risk reports, developing training materials and training staff, mentoring examiners, reviewing AIRES ALM work papers and exam reports, conducting Bloomberg analytics, developing agency guidance, reviewing pilot program applications, and answering examiner inquiries.) <b>Charge RCMS time spent on detail to E&amp;I to Detail to Central Office (WCC 43).</b>
Information Systems Officer or <b>Payment Systems Specialist</b> Time	19	Information Systems Officer or <b>Payment Systems Specialist</b> time spent on IS&T and <b>Payment System</b> issues. This pertains to time spent <i>not directly</i> related to a credit union (e.g., researching IS&T or <b>Payment Systems</b> topics, developing training materials and training staff, mentoring examiners, reviewing pilot program applications, and answering examiner inquiries.) <b>Charge Regional IS&amp;T field details (vendor reviews) and central office details to Detail to Central Office (WCC 43).</b>
Management Development Details	09	Time spent completing details for the Management Development Program or any other type of staff developmental program.
Examination FCU – Regular	10	Regular examination of a federally chartered credit union. Includes any SME activity directly related to an examination. SME time should be designated as such using the instructions in Section 6. Additionally, RCMS time, RLS time, RISO time <b>and Payment Systems Specialist time</b> on the examination is included

		here. (AIRES)
Examination FISCU – Regular	11	Examination/insurance review of any federally insured state chartered credit union (FISCU). Includes any SME activity directly related to an examination/insurance review. SME time should be designated as such using the instructions in Section 6. Additionally, RCMS time, RLS time, RISO time <b>and Payment Systems Specialist time</b> on the examination/insurance review is included here. (AIRES)
Examination Corporate FCU	12	Regular examination of a federally chartered corporate. (AIRES)
Examination Corporate SCU	13	Regular examination of a federally insured state chartered corporate. (AIRES)
Examination NFICU	15	Examination of a non-federally insured state chartered natural person (typically conversion examinations) or corporate credit union. (AIRES)
5300 / <b>5310</b> Program FCU	20	Processing of 5300 reports and Financial Performance Report (FPR) trending analysis for FCUs. <b>Processing of 5310 reports and Consolidated Balance Sheet (CBS) trending reports for corporate FCUs.</b>
5300 / <b>5310</b> Program SCU	21	Processing of 5300 reports and FPR trending analysis for SCUs. <b>Processing of 5310 reports and CBS trending reports for corporate SCUs.</b>
Supervision On-site – FCU	22	On-site supervision <b>and follow-up exams</b> of FCUs including any SME activity directly related to supervision of a FCU. Also includes RCMS time, RLS time, RISO time, <b>and Payment Systems Specialist time</b> for on-site supervision. (AIRES)
Supervision On-site – FISCU	23	On-site supervision <b>and follow-up exams</b> of SCUs including any SME activity directly related to supervision of a FISCU. Also includes RCMS time, RLS time, RISO time, <b>and Payment Systems Specialist time</b> for on-site supervision. (AIRES)
Review of State Examinations	26	Evaluation of examination reports completed by state supervisory authorities. (AIRES)
Supervision Off-site – FCU	27	Off-site supervision of FCUs. <b>(AIRES in accordance with NSPM.)</b>
Supervision Off-site – FISCU	28	Off-site supervision of SCUs. <b>(AIRES in accordance with NSPM.)</b>
CUSO Review	29	Reviews or examinations of credit union service organizations.

## 2. Administrative Time

CLASSIFICATION	WCC	DEFINITION OF USE
Office	30	Miscellaneous examiner office time not directly related to a credit union. Typically, responding to surveys, requests for comments, independently reviewing and developing Individual Development Plans, e-mail, voice mail, hard copy mail, travel vouchers, time reports, purchasing supplies, filing and organizing, <b>trips to post office</b> , making travel arrangements, etc.
Computer Administration	31	Examiner time spent maintaining computer hardware and software not directly related to any other work code. This includes time related to restoring lost data, repairing hardware, time with the

		Office of the Chief Information Officer (OCIO) Customer Service Help Desk, etc.
OJT SME Trainee	34	Time spent receiving specialized SME training during credit union contacts.
SE/DSA Details	35	Examiner time spent as Acting Supervisory Examiner (SE) or Director of Special Actions (DSA).
OCIO Technical Support Desk	36	Examiner details to OCIO, including the OCIO Technical Support Desk. <b>Charge examiner time spent on the Technology Development Team (TDT) developing, testing, or training on AIRES to Detail to Central Office (WCC 43).</b>
Meetings/Conferences – External and Internal	37	Meetings or conferences external to NCUA such as chapter meetings, meetings with other agencies, and topic presentations outside of NCUA. Also, meetings or conferences internal to NCUA such as SE group meetings, time spent with supervisors to review performance or Individual Development Plans, <b>or private confidential mediation sessions.</b>
Training – Classroom	39	Training courses normally in the classroom setting for senior examiners and new examiners. This time code should also be used for online training.
OJT SME Trainer	40	SME time spent providing specialized training during credit union contacts.
Training OJT and Trainee	41	Non-productive training time for new examiners and their trainers.
Online Meetings, Conferences, and Webinars	42	Online meetings, conferences, and webinars such as webinars providing training on new agency guidance, the Chairman’s quarterly webinars with staff, etc.
Detail to Central Office	43	Detail assignments to the central office. Includes national committee and/or working group assignments, Equal Employment Opportunity (EEO) counselors, accounting manual and examiner’s guide revisions, IS&T field (vendor reviews) and office details, consumer compliance details, etc. Does not include details to OCIO (see WCC 36) or OSCUI (see WCC 18).
Detail to Regional Office	44	Detail assignments to the regional office, including regional committee assignments, regional office training, details to the region’s Division of Special Actions, etc.
Travel – FCU	45	Travel associated with a FCU.
Travel – SCU	46	Travel associated with a SCU.
Travel - Training/Meetings/Conf.	47	Travel associated with training, meetings, conferences, or details.
Administrative Leave	56	Administrative Leave
Restored Leave	57	Restored Leave is annual leave that was scheduled by later denied by the supervisor. Restored leave would be “Use or Lose” leave.
Award Leave	58	Award Leave
Military Leave	59	Military Leave
Court Leave (Jury Duty)	60	Court Leave (Jury Duty)
Sick Leave – Family Member	61	Sick Leave – Family Member
Sick Leave – Family Funeral	62	Sick Leave – Family Funeral
Sick Leave – Family Adoption	63	Sick Leave – Family Adoption
FMLA for Family	64	FMLA for Family
FMLA for Employee	65	FMLA for Employee
Holiday	66	Official government holiday.

Annual Leave	67	Annual Leave.
Sick Leave	68	Sick Leave.
Other Leave	69	Other Leave.
Union Official Term Negotiations	70	A bargaining unit employee union representative use of approved official time, including applicable travel time, to participate in term and/or reopener negotiations covered in Article 41 of the Collective Bargaining Agreement (CBA) and related bargaining preparation. Hours are separate from the time bank in Article 6.
Union Official Mid-Term Negotiations	71	A bargaining unit employee union representative use of approved official time, including applicable travel time, to participate in negotiations covered by Article 8 of the CBA. Hours are separate from the time bank in Article 6.
Union Official Dispute Resolution	72	A bargaining unit employee union representative use of approved official time, including applicable travel time, to represent employees in activities covered by Articles 28, 29, 30, and 31 as well as to participate in FLRA proceedings. Hours are subject to the time bank and individual limits in Article 6.
Union Official General Labor/Management Relations	73	A bargaining unit employee union representative use of approved official time, including any applicable travel time, for activities related to labor relations such as formal meetings, meetings with BU employees, mid-term bargaining preparation, preparing and maintaining records required by federal agencies. Hours are subject to the time bank and individual time limits in Article 6 of the CBA.
Union Official Partnership Activities	74	A bargaining unit employee union representative use of approved official time, including applicable travel, to participate in approved NCUA/NTEU partnership activities. Hours are separate from the time bank in Article 6 of the CBA.
Union Official B1 Negotiations	75	A bargaining unit employee union representative use of approved official time, including applicable travel time, to participate in bargaining topics covered by the NCUA/NTEU B1 bargaining agreement. Hours are separate from the time bank in Article 6 of the CBA.
Bargaining Unit Employee Official Time (Replaces Prior Code 91)	76	A bargaining unit employee use of approved duty time, including any applicable travel time, to meet with union representatives concerning grievances or other representational matters.
Bargaining Unit Employee Partnership Activities	77	A bargaining unit employee use of approved official time, including applicable travel time, to participate in approved NCUA/NTEU partnership and to participate in bargaining topics covered by the NCUA/NTEU B1 bargaining agreement.
Credit Hours Earned	80	Credit hours earned.
Credit Hours Used	81	Credit hours used.
Compensatory Time Earned	84	Compensatory time earned.
Compensatory Time Used	85	Compensatory time used.
Travel Compensatory Time Earned	88	Travel compensatory time earned.
Travel Compensatory Time Used	89	Travel compensatory time used.
Paid Overtime	98	Paid overtime.

### 3. Subject Matter Expert (SME) Time Codes

SME time spent working or training in a particular specialty area will be recorded in TMS.NET using the SME Type column and the SME Hour column. These columns should be used for training, examination or supervision work, or any administrative time associated with an SME area.

CLASSIFICATION	SME TYPE	SME CODE	DEFINITION OF USE
Capital Markets SME	CMS	1	Productive and administrative time related to Capital Markets SME work.
Information Systems & Technology SME	IST	2	Productive and administrative time related to Information Systems & Technology SME work.
Payment Systems SME	EPS	3	Productive and administrative time related to Payment Systems SME work.
Recordkeeping/Internal Controls SME	RIC	4	Productive and administrative time related to Recordkeeping/Internal Controls SME work.
Specialized Lending SME	SL	5	Productive and administrative time related to Specialized Lending SME work.
Consumer Compliance SME	CC	6	Productive and administrative time related to Consumer Compliance SME work.

#### 4. Economic Development Specialist (EDS) Codes

The following work codes are for the EDS to record productive time not directly related to a specific credit union. EDSs should record one-on-one credit union direct assistance as WCC 2.

CLASSIFICATION	WCC	DEFINITION OF USE
<b>Guiding Credit Union Organizers</b>	01	<b>EDS consulting to organizers of potential new federal credit unions.</b>
<b>Enrolled Consulting Program - Onsite</b>	02	<b>EDS onsite consulting to credit unions currently ENROLLED in the Consulting Program. (AIRES)</b>
<b>Consulting Program – Follow-up and Unenrolled</b>	04	<b>EDS phone consulting to credit unions enrolled into previous consulting semesters, or those never enrolled. This time code is for limited and follow-up consulting.</b>
EDS National Workshops	14	EDS time spent participating in and preparing for OSCUI national workshops.
<b>OSCUI Training</b>	16	<b>EDS time spent on development/implementation of OSCUI events: webinars, videos, workshops, staff meetings, and bootcamps.</b>
<b>Training at Non-OSCUI Events</b>	17	<b>EDS time spent preparing for and speaking at NON-OSCUI events for the industry and NCUA. This includes examiner group meetings, examiner level training, and presentations at community organizations, trade associations, and government institutions.</b>
<b>OSCUI Support</b>	18	<b>EDS time spent drafting OSCUI responses to proposed regulations, and developing/revising OSCUI policies, procedures, and management information systems. This includes projects as assigned. This code captures details to the OSCUI Alexandria office. Time spent supporting OSCUI outreach and grant initiative efforts.</b>

<b>Enrolled Consulting Program – Offsite</b>	<b>25</b>	<b>EDS offsite consulting to credit unions currently ENROLLED in the Consulting Program. (AIRES)</b>
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## 5. Office of Consumer Protection (OCP) Time Codes

The following work codes are for OCP staff only to document consumer compliance reviews related to specific credit unions.

<b>CLASSIFICATION</b>	<b>WCC</b>	<b>DEFINITION OF USE</b>
OCP Onsite Fair Lending Review	03	<b>On-site</b> fair lending reviews of credit unions, including related <b>on-site</b> follow-up contacts. (AIRES) <b>Regional field staff will charge time spent participating with OCP on fair lending reviews to Detail to Central Office (WCC 43).</b>
OCP Complaint Review	32	OCP review of consumer complaints about federally chartered credit union (FCU) matters involving federal consumer protection laws and regulations, bylaws, elections of FCU officials, or field of membership issues. (AIRES)
<b>OCP Off-site Fair Lending Supervision Contact</b>	<b>33</b>	<b>Off-site fair lending reviews of credit unions, including off-site follow-up contacts after on-site examinations. (AIRES)</b>

## 6. Reporting Bank Secrecy Act (BSA) Review Time

Beginning January 1, 2014, we will begin tracking time spent reviewing BSA compliance during examinations, insurance reviews, and on-site and off-site supervision contacts. With all 2014 time reports, examiners will record the number of hours spent reviewing BSA compliance in the “BSA HRS” column in TMS.NET. Similar to the way SME hours are recorded, total contact hours will include the BSA review hours. TMS will be updated prior to 2014 to reflect this change.



## Chapter 13 – Examination Report Writing

The examination report should convey the purpose, scope, identified problems, corrective actions, and conclusions reached during the examination process. The examiner's written product is an essential communication tool and part of the formal administrative record.

The AIRES examination workpapers and schedules are also an important part of the administrative record, designed to support the examination report and the examiner's conclusions.

### 1. Examination Report Objectives

Examiners will write reports and prepare documents in accordance with NCUA's Communications Manual and plain writing guidelines. Examiners must develop a professional and concise examination report that communicates all problems and risks in an easy to read and understandable format for the credit union officials. The examination report must:

- Properly identify all material examination concerns related to the seven risk areas (credit, interest rate, liquidity, transaction, compliance, strategic, and reputation risk).
- Relate the applicable risk areas to the CAMEL ratings.
- Support all conclusions reached regarding problems identified.
- Outline proper corrective actions to ensure problems are resolved in a timely manner.
- Establish a documented administrative record to support future administrative action and problem resolution, if necessary.

The examination report is NCUA's official report to the credit union and an important communication tool between NCUA and credit union officials. The examiner-in-charge receives pertinent information from team members on the areas reviewed, prepares the report, and typically delivers the report to the board of directors at the conclusion of the examination. The credit union board of directors and senior management comprise the report's primary users, so examiners should write the report with the officials as the audience.

Examiners should set aside time throughout the examination to discuss problems identified during the examination with management and officials. It is important to provide management a draft copy of the Document of Resolution, Examiner's Findings, and Loan Exceptions with sufficient time to review before the joint conference or exit meeting. Examiners should not present new information to managers at the joint conference, exit meeting, or in the examination report.

### 2. Examination Report Components

For federal credit union examinations and supervision, the official examination report is comprised of the following documents, as applicable:

- Examination Report Cover Letter (required)
- Table of Contents (required)
- Examination Overview (required)
- Document of Resolution (if applicable)

- DOR Status Report (if applicable)
- Examiner's Findings (if applicable)
- Loan Exceptions Schedule(s) (if applicable)
- Supplementary Facts (if applicable)
- Status Update (if applicable)
- FISCU CAMEL Disclosure (required for FISCUs)

In addition to the official examination report documents, examiners may upload additional workpapers, schedules, checklists, forms, or notes that support their conclusions with the AIRES examination upload. Examiners will also prepare the Confidential Section (required) and Supervision Chronology Report (if applicable) documents for NCUA's internal use only, as directed in Chapter 1 of this manual. Chapters 1, 2, and 3 detail the specific AIRES workpaper requirements for each type of examination or contact.

State regulator examination reports may contain different key documents and workpapers. NCUA examiners must follow Chapter 3 when conducting examinations and contacts in FISCUs.

### **A. Cover Letter**

The cover letter explains the risk-focused examination process, the examination appeal process, and provides a description of the key documents included in the examination report.

Examiners will include the appropriate cover letter with the official written examination report presented to credit union officials. AIRES provides standard cover letter templates for each type of examination or contact.

### **B. Table of Contents**

Examiners will use the AIRES Table of Contents to organize the report and document the official examination report components and workpapers given to the officials. Examiners will provide the credit union copies of the Examination Cover Letter, Examination Overview, and other report documents as applicable.

Examiners may informally provide the credit union any schedules, optional workpapers, questionnaires, or examiner-designed workpapers needed to support their conclusions and assist in gaining resolution to problems uncovered during the examination or supervision process. However, only those workpapers and documents listed in the Table of Contents are considered part of the official examination report.

### **C. Examination Overview**

The Examination Overview (Overview), at a minimum, discloses both the component and composite CAMEL ratings and each final risk rating as outlined in Chapter 1 of the [Examiner's Guide](#). If no material risks exist, the Overview will usually be brief.

The Overview should include a high-level summary of risks identified during the examination. In addition, the Overview should:

- Summarize the credit union's overall condition.
- Discuss the credit union's current and future risk profile.
- Relate the applicable risks to the CAMEL ratings.
- Present a professional, concise discussion of key issues in context of the credit union's overall condition.
- Be easy for credit union officials to read and understand.

#### **D. Document of Resolution (DOR)**

The DOR outlines the problem(s) identified and corrective action plan(s) that represent agreements reached with officials to correct problems of the highest priority and concern arising from the examination or supervision contact. Examiners will detail the person(s) responsible, a citation for the problem, and the timeframe for taking corrective action in the DOR. NCUA expects faithful performance from credit union management on all agreements reached and documented in the DOR. Credit union management's failure to address DOR items may result in administrative action.

Problems included in a DOR must be significant enough that the examiner would recommend escalating to the next level of elevated enforcement action (e.g. Regional Director Letter, Letter of Understanding and Agreement) for failure to correct the problem. DOR items are those that management must begin to address immediately or within a compressed timeframe due to the risk associated with the problem. Sometimes, the problem may take significant time to be fully resolved. In these instances, the credit union must initiate action to address the items quickly, even if it may take a year or more to fully resolve the problem or comply with the corrective action item.

#### **What Should I Include in the DOR?**

Problems requiring immediate attention that examiners will address in the DOR include:

- Unsafe or unsound practices that reasonably threaten the stability of the credit union. This means any action or lack of action that, if left uncorrected, may result in substantial loss or damage to the credit union or its members. Conditions or practices considered "unsafe or unsound" include, but are not limited to:
  - Operating with an inadequate level of net worth or capital for the kind, quality, and concentration of assets held.
  - Engaging in lax lending and/or collection practices including, but not limited to: extending inadequately secured credit, originating credit without obtaining current financial information, extending credit without adequate controls, and extending credit with inadequate diversification of risk.
  - Operating without adequate liquidity.
  - Operating without adequate internal controls. Examples include internal control weaknesses that can lead to persistent recordkeeping errors, numerous loans granted outside of policy, or manipulation of records.

- Failure to keep accurate books and records. This includes an accounting and control structure that does not provide for accurate full and fair disclosure of financial statements, which may lead to or mask severe financial problems.
  - Operating without a credit risk management program commensurate with the types of credit extended to the membership.
  - Operating without an asset/liability risk management process commensurate with the complexity of the balance sheet.
  - Inadequate corporate governance.
- Compliance violations that are systemic, recurring, or that result from willful neglect.
  - Bank Secrecy Act (BSA) Violations, in accordance with the agreement between NCUA and the Financial Crimes Enforcement Network.

When determining whether a problem qualifies as a DOR, consider the following:

- If left unresolved, could the violation or problem cause serious financial or operational damage to the credit union?
- Does the problem result in fundamental noncompliance with laws and/or regulations?
- Is the problem something that would need to be escalated to the next level of enforcement action (PWL, LUA, etc.) if unresolved?
- Is the problem a result of management's inability or unwillingness to properly identify, measure, monitor, and control the risk?
- Is the problem widespread through the organization?

Problems meeting the above criteria likely warrant a DOR. However, examiner judgment is necessary to determine whether a problem meets the definition of a DOR. Examiners will consider the circumstances surrounding the problem and the relative impact on the credit union when determining if a practice is unsafe or unsound at that particular credit union.

If a problem has been ongoing for many years, examiners must use judgment to determine whether it meets the definition for a DOR. Examiners should take the appropriate action, which may include marking the DOR as no longer applicable (NLA) because it has not caused harm to the financial or operational condition of the credit union, issuing a new corrective action plan that better addresses the root cause of the problem, moving the problem to the Examiner's Findings, or recommending escalated enforcement action.

#### What Should I Exclude from the DOR?

Examiners should refrain from documenting every problem in a DOR. The DOR should be reserved for problems that meet the standards outlined above. Additionally, examiners should exclude the following items from the DOR.

- Examiners should not include suggestions or items for management to consider in the DOR. Sometimes it is appropriate to provide the credit union suggestions and recommendations, or present options they should consider. Examiners can include such suggestions and recommendations in the Supplementary Facts.

- Examiners should not issue broad or general DORs requiring the credit union to “comply with the examination report” or to correct problems included in the Examiner’s Findings section. The cover letter attached to each examination report outlines management’s responsibilities, which include acting on the report to correct all deficiencies. CAMEL and risk ratings should reflect management’s ongoing failure to correct problems noted in the DOR or Examiner’s Findings, if necessary.
- Examiners should not escalate unresolved Examiner’s Findings to a DOR merely because they have gone unresolved. Numerous uncorrected Examiner’s Findings can be indicative of uncooperative or ineffective management and may impact a credit union’s CAMEL and/or risk ratings. A DOR to address uncooperative or ineffective management may be warranted in these circumstances.

If circumstances change and the unresolved Examiner’s Finding subsequently meets the criteria for a DOR, examiners should document the problem and corrective action in the DOR.

- Blanket DORs requiring the credit union to comply with the LUA are not necessary. By signing an LUA, credit union management agrees to correct the deficiencies noted within the LUA. To maintain the administrative record, examiners must document the status of the LUA in the examination report. The DOR issued to credit unions with an outstanding LUA may only include new problems and corrective action plans not already addressed in the LUA. For DORs that are issued and then incorporated into an LUA, the examiner may continue to include them in the DOR provided to the credit union or include them under the “Items excluded from DOR” section of the AIRE module for tracking purposes. If a credit union fails to comply with an LUA, examiners should discuss the need for additional enforcement action with the SE. At a minimum, the CAMEL and risk ratings should reflect management’s failure to comply with an LUA.

#### How do I Request Monthly Financial Statements?

Chapters 2 and 3 instruct examiners to obtain monthly financial statements for all troubled institutions where the financial condition is a problem and the credit union represents significant risk to the NCUSIF. Because credit unions requiring monthly monitoring generally have material concerns, examiners may document the requirement to send monthly financial statements and/or board packets in the DOR. This provides documentation that management has agreed to submit these items to the examiner by a specified time each month. When including this action item in the DOR, examiners will utilize the Non-Risk (Housekeeping) option under the risk areas in the DOR module.

### How do I Request a Response to the DOR?

Under certain circumstances, examiners are required to obtain written responses to the DOR from credit union officials. To fulfill this obligation, examiners may include an action item in the DOR requiring the credit union to provide a written response to the examination report by a specific date. Examiners may also address this request in any open section of the examination report as necessary. When including this action item in the DOR, examiners will utilize the Non-Risk (Housekeeping) option under the risk areas in the DOR module.

### When do I Have to Follow-up on DOR Items?

Generally, examiners should follow-up on DOR items within 120 days after the timeframe for completion has passed. In the case of CAMEL 3, 4, and 5 credit unions, the current follow-up supervision requirements outlined in Chapter 1 will allow for adequate follow-up on DORs.

In CAMEL 1 and 2 credit unions with a DOR, the examiner should evaluate whether a CAMEL 1 or 2 rating is warranted. If it is, the examiner can set the timeframe for completion to coincide with the next scheduled contact or examination. If the DOR is so time-sensitive that it needs to be completed sooner than before the next scheduled contact or examination, examiners will follow-up within 120 days of the timeframe for completion.

### How do I Follow-up on DOR Items?

Examiners need to follow-up on outstanding DOR items through both on and off-site supervision. Examiners must follow national policy outlined in Chapters 2 and 3 for completing on and off-site supervision.

Examiners should track DOR timeframes for completion and follow-up with credit union management via phone call or e-mail to discuss the status of DOR items as part of off-site supervision. For DORs that can be confirmed off-site, examiners should mark them as “resolved” or “unresolved” in the DOR module accordingly and upload the AIRES file. For other items that need to be reviewed on-site, examiners should determine their status and update the DOR module at the next scheduled on-site contact. For simplicity, examiners may consider using the next scheduled contact date to determine the timeframe for completion.

When on-site for a follow-up contact or at the following examination, examiners should include review of the prior DOR in the examination scope. If unresolved DOR items are identified, examiners should first identify why the item is unresolved to properly address and resolve the recurring problem. The reason a DOR item remains unresolved will determine the subsequent steps necessary.

The first step is to identify why credit union management did not resolve the problem. Consider the following:

- Did management make a good faith effort and comply with a majority of the corrective action plan?
- Did the corrective action plan prove to be unachievable or unreasonable?

- Did management resolve the root problem in a different manner than was agreed upon in the DOR?
- Did management comply with the corrective action plan, but the action did not resolve the problem?
- Did management ignore the corrective action plan?

There may be additional reasons the credit union did not comply with a corrective action plan. Examiners should consider these reasons when determining the best way to address unresolved problems. For example, if management willfully neglects to address the problem the examiner should consider how management's inaction affects the credit union's CAMEL and risk ratings and whether escalated administrative action is necessary.

In instances where management completed a majority of the corrective action plan, the original DOR item was unachievable, or management complied with the corrective action plan but it did not solve the problem, examiners should develop a new corrective action plan to resolve the problem. Examiners should use judgment to determine whether it is a repeat DOR item or if the original DOR item is "NLA".

In instances where management made a good faith effort or has completed a majority of the elements of a corrective action plan, a repeat DOR may not be warranted if the remaining items can be corrected in the normal course of business. Examiners should use the DOR definition outlined above to determine whether a problem should remain a DOR. Examiners must mark DOR items resolved when a credit union has implemented the corrective action, even if the financial trends do not yet reflect the improvements the actions were intended to correct.

For example, a credit union has a high operating expense to average asset ratio and negative earnings. The DOR corrective action plan requires the credit union to reduce operating expenses. When the examiner follows-up, they note the credit union has made adequate expense cuts; however, the operating expense to average asset ratio remains high and will not reflect the full impact of the expense cuts for two more quarters. In this case, the examiner should mark the DOR as resolved. The examiner has multiple options to address the ongoing risk including, but not limited to:

- Documenting the credit union's compliance with the DOR in the DOR Status Report and note management should continue to monitor the operating expense to average asset ratio until the financial ratios reach the agreed upon goal.
- Documenting the credit union's compliance with the DOR in the Examination Overview and noting management should continue to monitor the operating expense to average asset ratio until the financial ratios reach the agreed upon goal.

Create a new DOR for the credit union to achieve the agreed upon ratio goal (e.g. Achieve an operating expense to average asset ratio of X.XX%) with timeframe for resolution in two quarters to provide the financial ratios time to reflect the operating expense cuts.

For DOR corrective action items that will take more than one year to reflect full compliance, examiners should consider issuing individual DORs to achieve quarterly goals, with the applicable timeframe for completion. Examiners should work with credit union management to develop reasonable goals to include in the DOR.

### Developing DORs

The first step in developing a DOR is to discuss the identified problem(s) with management and strive to obtain agreement that the problem(s) exists.

When management agrees with the problem, examiners will:

1. Ask credit union management to develop an acceptable corrective action plan(s) to resolve the problem(s).
  - a. Include acceptable credit union developed corrective action plan(s) in the DOR.
  - b. If management cannot provide acceptable corrective action plan(s), develop the corrective action and strive to get management's agreement.
    - i. Examiner developed corrective action will be included in the DOR. If management does not agree, include the following language in the DOR:

“These plans for action, although not approved by the credit union officials, are recommended to correct the area of concern. The officials have agreed to review the plans and to notify the Regional Director, National Credit Union Administration, (enter appropriate address), by (enter date), of the actions to be taken.”

When management does not agree with the identified problem(s), examiners will evaluate the reasons for the disagreement and ensure they have identified the core problem(s). Once the core problem(s) has been identified and agreed upon, examiners will proceed with asking management to develop an acceptable corrective action plan(s) as outlined above.

If management still does not agree with the identified problem(s), examiners will:

1. Develop corrective action plan(s) and strive to get management's agreement to comply.
2. Include the corrective action plan(s) in the DOR.
  - a. If management does not agree to comply:
    - i. Weigh management's failure to identify and resolve problems in the management CAMEL component and overall composite ratings.
    - ii. Include the corrective action plans in the DOR with the following language:

“These plans for action, although not approved by the credit union officials, are recommended to correct the area of concern. The officials have agreed to review the plans and to notify the Regional Director, National Credit Union Administration, (enter appropriate address), by (enter date), of the actions to be taken.”

[Appendix 13A](#) includes a flowchart of the steps outlined above. For problems the examiner determines to be particularly severe, examiners will notify their supervisor and consider



drafting a Regional Director Letter urging the officials to accept the resolution offered in the DOR or formulate an acceptable alternate plan that recognizes and resolves the problems. However, when the overall risk to the credit union so warrants and agreement cannot be reached, it may be necessary to recommend escalated administrative action. The Confidential Section should document all cases of disagreement and the intended steps to ensure proper resolution and follow-up of the problems identified. Additionally, if an examiner suspects or has identified fraud or ethical concerns, a more unilateral approach may be necessary. In these instances, examiners should notify the Supervisory Examiner.

When presenting the final report to the officials, examiners should request the Board of Directors enter a formal board resolution into the minutes documenting agreement to resolve all DOR items.

### Drafting the DOR

The DOR concisely describes the problem, including all supporting facts, and outlines the corrective action necessary to resolve the problem. When drafting a DOR, examiners must use the AIRES DOR module. The AIRES DOR module enables examiners to draft DOR items and create a mechanism within AIRES that allows tracking of the DOR until it is marked “Resolved” or “NLA”.

When inputting DOR items into the AIRES module, examiners will:

- Concisely describe the root problem, including any corresponding details and facts that support the conclusion that the problem warrants a DOR item in the Problem section of the AIRES DOR module. For example, in a credit union with multiple accounts that are out of balance, the DOR should address the *cause* of the poor recordkeeping rather than only requiring the credit union to balance the accounts. The credit union must not only balance all accounts, but also ensure staffing, controls, and procedures are in place to prevent future out-of-balance situations.
- Outline appropriate corrective action to resolve the identified problem in the Agreed Upon Corrective Action section. Examiners should use corrective actions suggested by credit union management if the action will adequately resolve the problem.
- Cite the agreed upon timeframes for completion. Examiners should not cite “ongoing” as the timeframe for correction.
- Cite the specific section of the FCU Act, NCUA Rules and Regulations, FCU Bylaws, or other authority (including NCUA-issued guidance such as Letters to Credit Unions). For those problems not specifically addressed in law, regulation, or other specific regulatory guidance examiners should cite Section 206(b)(1) of the FCU Act or Section 741.3 of NCUA’s Rules and Regulations.<sup>71</sup> If the credit union violates more than one of the above,

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<sup>71</sup> Section 206(b)(1) of the Act gives NCUA the ability to terminate insurance for unsafe and unsound practices. Even though a DOR may not lead to termination of insurance, the Act implies credit unions must operate in a safe and

the examiner should cite the highest authority. [Appendix 13B](#) provides additional information on citations.

- Identify the specific person(s) or committee(s) responsible for correcting each DOR item. Examiners should specify the person(s) responsible by name and title.

When drafting DORs, examiners will:

- Use the “SMART” principle when developing corrective action plans:
  - Specific
  - Measurable
  - Achievable
  - Results-oriented
  - Timely

Do not issue corrective action plans that are not SMART (e.g. instructing a credit union to “continue” or “consider” an action).

- Begin the corrective action plan with an action verb.
- Tailor the DOR and the corrective action plans specifically to the credit union and the competence of the management team. Generally, the corrective action plans will be more detailed and specific in credit unions with more complex problems and/or less sophisticated management.
- Prioritize the order of DOR items with the most critical problems up front. Examiners should ensure the DOR focuses only on the most critical items at that contact.
- Categorize similar or related DOR items into logical groups when practical. For example, group four separate DOR items related to credit risk weaknesses under a “Credit Risk Management” sub-heading in the DOR.

## **E. Examiner’s Findings**

The Examiner’s Findings reflect problems that management must address, but can do so in the normal course of business. Since these problems do not currently threaten the viability of the credit union or represent systemic violations, management may determine the timeframe and approach for correcting these problems. Repeated failure to resolve problems in the Examiner’s Findings could indicate a serious underlying management deficiency and result in a DOR addressing management’s lack of controls to ensure problem resolution. However, failure to resolve these problems does not automatically warrant escalating the finding to a

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sound manner as a condition of insurance. Section 741.3 of the Rules and Regulations also requires credit unions operate in a safe and sound manner as a condition of insurance.

DOR. Examiners should determine the root problem and determine if that meets the definition of a DOR.

Generally, Examiner's Findings will only include a statement of the problem. The examiner may provide the credit union with a recommended corrective action to resolve the problem when necessary.<sup>72</sup>

When drafting an Examiner's Finding, the examiner should cite the specific section of the FCU Act, NCUA Rules and Regulations, FCU Bylaws, or other authority (including NCUA-issued guidance such as Letters to Credit Unions).<sup>73</sup> In the event the credit union violates more than one of the above, the examiner should cite the highest authority. Appendix 13B provides additional information on citations.

### Unresolved Prior Examiner's Findings

If an examiner discovers that previous Examiner's Findings (Findings) are not corrected, they must determine the reason behind the lack of resolution and the materiality of the concern. Numerous uncorrected findings can be indicative of an uncooperative or ineffective management which may also suggest the need for other administration actions. At a minimum, examiners should list Findings noted during previous examinations, but not yet corrected, under a heading such as "Findings Noted at Previous Examination That Are Not Yet Corrected" or by identifying the Finding and footnoting it with similar wording. Repeat Examiner's Findings are not automatically escalated to a DOR.

### **F. Loan Exceptions Schedule(s)**

Examiners should list weaknesses in loan underwriting, lack of compliance with credit union underwriting policies, regulatory compliance issues, etc. on the loan exceptions schedule(s).

If used, examiners will include the loan exceptions schedule(s) in the official examination report. If the loan review reveals material or systemic weaknesses, the examiner should address these issues in other portions of the examination report as needed.

### **G. Supplementary Facts**

The primary purpose of the Supplementary Facts document is to provide additional detailed information that enhances or supports issues already discussed in the Overview or other portions of the examination report. Examples of items to discuss in the Supplementary Facts include:

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<sup>72</sup> Such as when the credit union needs specific direction or asks for guidance on correcting certain problems.

<sup>73</sup> Section 206(b)(1) of the Act gives NCUA the ability to terminate insurance for unsafe and unsound practices. Even though a DOR may not lead to termination of insurance, the Act implies credit unions must operate in a safe and sound manner as a condition of insurance. Section 741.3 of the Rules and Regulations also requires credit unions operate in a safe and sound manner as a condition of insurance.

- Further background information related to specific examination concerns documented in the Overview or other portions of the examination report. For example, a detailed analysis of Interest Rate Risk (IRR) modeling concerns which may not be appropriate for an Overview discussion but still needs to be documented and communicated with credit union officials.
- Communicating detailed information on new laws or regulations impacting or soon to be impacting the credit union.
- Additional background information on more detailed or complex accounting issues affecting the credit union.
- Other issues such as bond claims, fraud concerns, or contingent liabilities warranting enhanced discussion.

If used only for informational purposes, for example to provide recommendations or suggestions, examiners have the option to provide the Supplementary Facts document only to daily management and exclude it from the official examination report. If the Supplementary Facts document includes discussion of issues affecting the operations of the credit union or information supporting other documents in the examination report, examiners must include it with the official examination report provided to the officials.

## **H. Status Update Template**

Examiners will use the Status Update template to document a credit union's compliance with outstanding administrative actions (LUA, PWL, etc.) and net worth restoration plans. For each document, examiners should provide a separate Status Update. For example, if a credit union has an outstanding LUA and NWRP, the examiner will create two Status Update templates, one for each of the outstanding documents.

At a minimum, examiners will include each outstanding corrective action or goal and the most current status of each in the Status Update. Examiners will include the Status Update(s) in the official examination report provided to credit union officials. However, if the credit union does not have any outstanding enforcement actions or an NWRP, the examiner should exclude this document from the report.

## **3. Supporting Workpapers**

In addition to the examination report documents provided to the credit union, examiners must complete and upload sufficient AIRES workpapers to support the examiner's conclusions, and NCUA's administrative record. National guidance, as outlined in the NSPM, dictates the required workpapers for each type of examination or contact.

### **A. Scope Module**

Chapters 2 and 3 of this manual, the Scope Development and Planning section of the [Examiner's Guide](#), and the AIRE Users' Manual provide additional guidance on completing the Scope module. The examination scope describes the type, depth, and results of review conducted within each risk area during a credit union examination and, in some cases, supervision contact. NCUA Instruction 5000.20 discusses expectations for conducting reviews of specific areas in more detail.

## **B. Exam Management Console**

The Exam Management Console (EMC) captures basic information for all contact types. There are three main tabs on the EMC screen: General Exam Information, Time Detail, and Completion Information.

## **C. Consumer Compliance Violation Module**

Examiners must document violations of federal regulation detected during the examination and supervision process on the Consumer Compliance Violation (CCV) module. Examiners will follow the procedures for BSA violations outlined in Chapter 9.

## **D. AIRE Questionnaires**

AIRE Questionnaires are available to assist examiners in completing examination steps. Examiners must use their judgment to determine when best to use questionnaire(s).

## **E. Confidential Section**

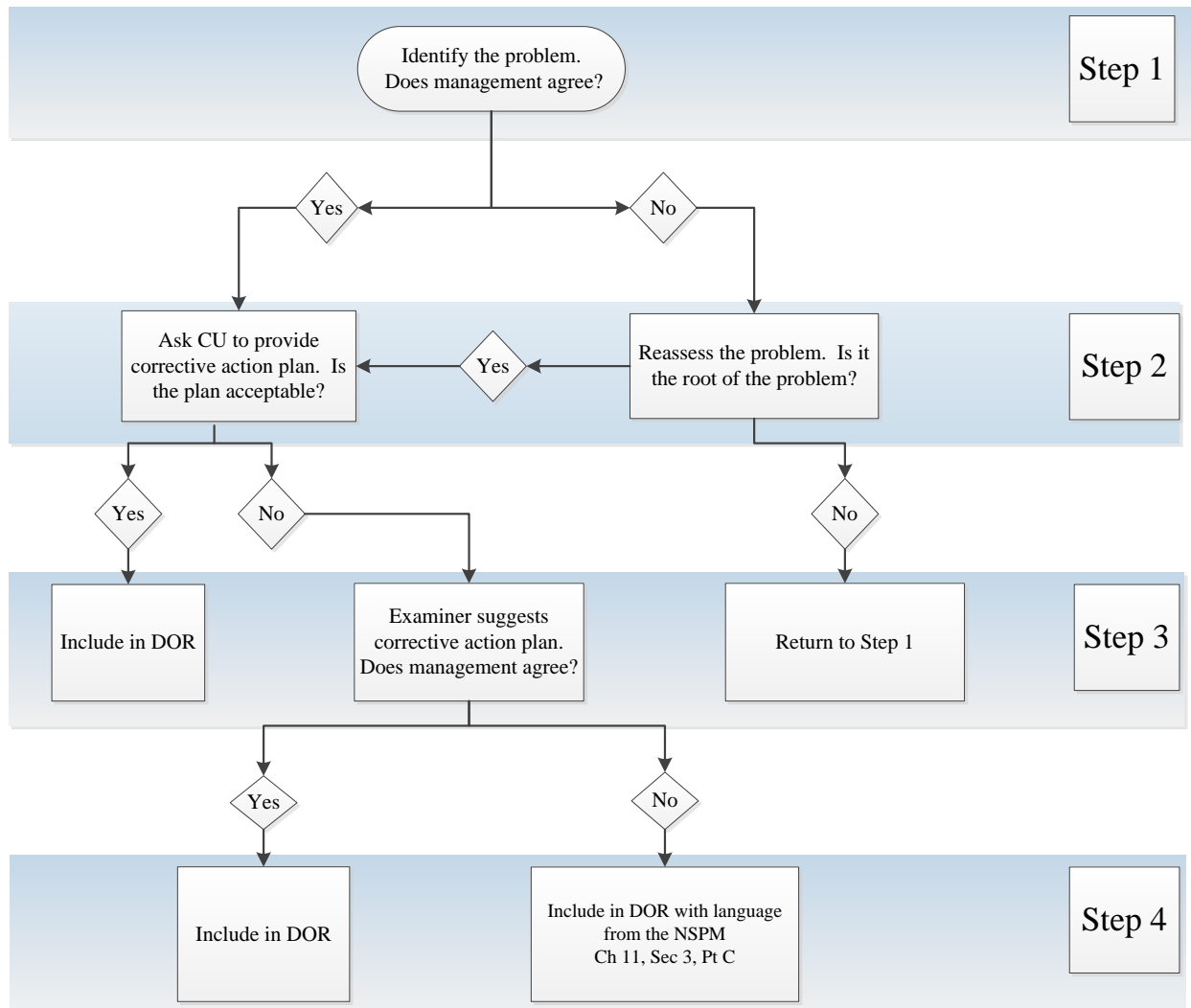
The Confidential Section is for the agency's internal use only. Examiners should document in the Confidential Section any actions taken during the examination not discussed elsewhere in the report. Chapter 1 lists what examiners are required to address in the Confidential Section.

The Confidential Section is also used to candidly discuss management's ability and willingness to correct areas of concern as well as provide details of new or unique programs or services not discussed elsewhere in the report or in the AIRE Scope Module.

Examiners will document if management developed and provided the DOR corrective action items in the Confidential Section.

## Appendix 13-A

### Flowchart for Developing DORs



## Appendix 13-B

### Citations

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#### Citation Guidelines

When citing problems identified, examiners will:

- Cite the highest, most specific authority.
- List multiple citations, if necessary. For example, examiners should cite NCUA Rules and Regulations Section 741.3(b)(5) for violations of the Interest Rate Risk rule, but may also cite Letter to Credit Unions 12-CU-11, which provides the credit union additional information regarding the Rule.
- Refrain from citing “safety and soundness” or “sound business practice.”
- Use “Part” when referring to the entire part of a rule or regulation. For example, Part 723 or Part 702.
- Use “Section” when referring to a specific section of a rule or regulation. For example, Section 723.8 or Section 702.201. When referring to a section, examiners may also use the section symbol (§723.8 or §702.201).

#### Hierarchy of Guidance to Cite

Below are frequently used citations.

Federal Credit Union Act  
State Law  
Consumer Compliance Laws  
NCUA Rules and Regulations  
Credit Union Bylaws  
Preamble to NCUA Rules and Regulation  
Interpretive Ruling and Policy Statement (IRPS)  
IRPS Preamble  
GAAP/FASB Rules  
FFIEC Guidance  
Interagency Guidance  
Accounting Bulletins  
Letters to Credit Unions  
Risk Alerts  
Examiner’s Guide  
General Counsel Opinion Letters  
Merger Manual  
Chartering and Field of Membership Manual  
Accounting Manual  
Supervisory Committee Guide

# Chapter 14 – Exam Complaints

## 1. Examination Complaints

Credit union officials have the right to appeal or file a complaint on examination issues directly to the regional director. These appeals/complaints may take the form of complaints against supervisory examiners, examiners, requests for a different examiner, or requests for some type of change to the examination report.

In addition, § 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 required NCUA to establish an independent appellate process to review material supervisory determinations. In 2011, the NCUA Board adopted Interpretive Ruling and Policy Statement (IRPS) 11-1, Supervisory Review Committee. This IRPS was amended by IRPS 12-1. IRPS 12-1 allows credit union officials to appeal material supervisory determinations to a supervisory review committee (committee) composed of three NCUA senior staff. Any decision, whether at the regional director level or at the committee level, is appealable to the NCUA Board.

Examination material supervisory determinations are limited to:

- Composite CAMEL ratings of 3, 4, and 5 and all component ratings of those composite ratings;
- Adequacy of loan loss reserve provisions; and,
- Loan classifications on loans that are significant as determined by the appealing credit union.

To be appealable to the committee, the examination complaint must be filed by the credit union within 30 days of the examiner's final determination. A complaint regarding a FISCO examination may be made to the NCUA if the final determination was made by the NCUA examiner. If the final determination was made by the state examiner, the complaint will be turned over to the state for the appropriate action.

### A. Examination Complaint Investigation Goals

Our main goal is to anticipate and resolve problems at the field level whenever possible. We expect the investigative process to:

- Determine the real issues and work towards solutions.
- Reach agreements based on facts and complete necessary corrective action.
- Identify potential deficiencies in agency systems, methods, and procedures and effect correction.
- Identify examiner performance issues.



- Provide a written response from the Regional Director to the credit union within a 30-day timeframe on all appeals that involve material supervisory determinations.

## **B. Regional Director Responsibilities**

- The regional director, or his/her designee, will review all appeals.
- If the RD, or his/her designee, determines that the appeal concerns NCUA staff involvement in waste, fraud, or abuse against the U.S. government, the Office of the Inspector General will be notified immediately.
- The RD, or his/her designee, or his designee, will route all appeals to the DOS director for processing.

## **C. DOS Responsibilities**

DOS is responsible for coordinating the examination complaint investigation with field staff. Upon receipt of an examination complaint, DOS will:

- For FISCUs, DOS will review the complaint to identify if the NCUA or state made the final determination. If it was NCUA, the complaint will be processed by DOS. If the state examiner made the final determination the complaint will be forwarded to the state for processing.
- DOS will review the complaint and identify if it is for a material supervisory determination. If the complaint is ultimately appealable to the committee, DOS will ensure all actions are completed within 30 days. If the complaint is not for a material supervisory determination, DOS will ensure all actions are completed with 45 days.
- Draft an acknowledgement letter and send it to the credit union ([Appendix 14-A](#)) within 5 days of receipt of the complaint in the regional office.
- Prepare and send a work assignment to the SE (or ARDP) that includes a copy of the credit union's examination complaint. A copy of the examination complaint will be sent to the Examiner-In-Charge, if warranted.
- DOS will review the field report of investigation and analyze the recommendations for appropriate support and justification. Upon concurrence, DOS will submit the recommendation and proposed response letter ([Appendix 14-B](#)) to the RD for approval and signature. DOS will mail the signed letter using the region's preferred expedited mail delivery service with a copy to the SE and Examiner.

## **D. Field Review Responsibilities**

The supervisory examiner (SE) will be responsible for investigating all complaints. If the SE is named in the complaint, the associate regional director, program (ARDP), or his/her designee, may be asked, depending on the nature of the complaint, to handle the investigation.

The SE (or ARDP) will contact the credit union officials and the examiner and will schedule any meetings necessary to facilitate the investigation.

The SE (or ARDP) will complete the investigation and send a report to DOS outlining the investigation steps, the findings, agreements, and recommendations for action. The SE response will also include a draft response letter to the credit union for the regional director's signature ([Appendix 14-B](#)).

The SE may request an extension of the investigation timeframe for any complaint not governed by IRPS 12-1 by sending an e-mail request to the ARDP explaining the reason for the extension. The ARDP will notify the SE of his/her decision by e-mail with a copy to the DOS.

**Appendix 14-A**  
**Sample Examination Complaint Acknowledgment Letter**

[DATE]

Mr. John Doe  
Board Chairman  
ABC Federal Credit Union  
Address  
City, State Zip Code

Dear Mr. Doe:

On [DATE], I received your letter detailing your disagreement with the NCUA examination, effective [ DATE ]. In particular, the board of directors is requesting changes to the [EXAMINATION ITEM THEY WANT CHANGED].

I have asked Supervisory Examiner [SE NAME] to review this matter and provide me his/her findings. [ SE NAME ] will contact you to discuss your letter and determine what further action may be needed. Once the review is complete, I will provide you with my response no later than [ 30 DAYS ].

If you have any questions in the interim, please contact the Division of Supervision at [PHONE NUMBER].

Sincerely,

[  
Regional Director

[OFFICE]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX

**Appendix 14-B**  
**Sample Examination Complaint Response Letter**

[DATE]

Mr. John Doe  
Board Chairman  
ABC Federal Credit Union  
ADDRESS  
CITY, STATE ZIP CODE

Dear Mr. DOE:

On [DATE], I received your letter concerning the disagreement with the Document of Resolution issued at the NCUA examination, effective [DATE]. In particular, the board of directors requested NCUA lift the moratorium on real estate lending.

I understand Supervisory Examiner [SE NAME] discussed this matter with Examiner [EXAMINER NAME] and met with you and the ABC FCU board on [DATE]. After these discussions, concerns remain with your credit union's ability to measure, monitor and control increased interest rate risk resulting from your desire to fund long-term, fixed-rate real estate loans.

During your meeting with Supervisory Examiner [SE NAME], your board agreed to seek training in asset-liability management and interest-rate risk concepts, and seek outside assistance to evaluate your real estate loan policies and concentration risk limits. Once you receive this training and consultation, Examiner [EXAMINER NAME] will return to your credit union to review your progress. Examiner [EXAMINER NAME] will re-evaluate the need for the real estate loan moratorium during his follow-up contact.

If you have any questions, please contact Supervisory Examiner [SE NAME] or Examiner [EXAMINER NAME] at [PHONE NUMBER].

Sincerely,

[  
Regional Director

[OFFICE]/[WRITER'S INITIALS]  
SSIC XXXX  
Charter #

cc: SE  
EX

# Enforcement Authorities for Credit Unions

Listed below are various laws and regulations that apply to credit unions and the related federal enforcement authorities.

Laws & Regulations	Federal CUs	Federally insured state-chartered CUs	Non-federally insured CUs
<b>Part I Credit</b>			
B—Equal Credit Opportunity	NCUA	FTC	FTC
E—Electronic Fund Transfers	NCUA	FTC	FTC
Credit Practices Rule	NCUA	FTC	FTC
M—Consumer Leasing	NCUA	FTC	FTC
RESPA—Real Estate Settlement Procedures Act	HUD <sup>1</sup>	HUD	HUD
Z—Truth in Lending	NCUA	FTC	FTC
<b>Part II Housing</b>			
C—Home Mortgage Disclosure	NCUA	NCUA	NCUA
Flood Disaster Protection Act	NCUA	NCUA	FHA/VA
FHA Fair Housing Act	HUD	HUD	HUD
<b>Part III Privacy</b>			
Bank Secrecy Act	NCUA	NCUA <sup>2</sup>	TREAS (IRS)
Consumer Privacy	NCUA	NCUA	FTC
Fair Credit Reporting Act	NCUA	FTC	FTC
Right to Financial Privacy Act	Private	Private	Private
<b>Part IV Credit Union Operations</b>			
CC—Expedited Funds Availability Act	NCUA	NCUA	FRB
D—Reserve Requirements	FRB	FRB	FRB
Fair Debt Collection Practices Act	NCUA	FTC	FTC
Management Officials Interlocks Act	NCUA	NCUA	DOJ
Service Members Civil Relief Act	Private	Private	Private
Truth in Savings Act	NCUA	NCUA	NCUA <sup>3</sup>

## Legend:

DOJ	Department of Justice
FHA/VA	Federal Housing Administration/Veterans Administration
FRB	Federal Reserve Board
FTC	Federal Trade Commission
HUD	Department of Housing and Urban Development
IRS	Internal Revenue Service
Private	Cause of Action
TREAS	Treasury Department

Note: Although NCUA is not the primary enforcer under some of these regulations, Title II of the FCU Act authorizes NCUA to take cease and desist actions for violations of any law.

<sup>1</sup>HUD's policy is to cooperate with federal and state regulatory agencies having supervisory powers over lenders.

<sup>2</sup>For FISCUs examined by NCUA.

<sup>3</sup>NCUA has jurisdiction for federal CUs, federally insured, state-chartered CUs, and CUs with accounts eligible to be insured by the NCUSIF.

## Explanations of Commonly Used Acronyms and Initials

AIRES	Automated Integrated Regulatory Examination System	MLR	Material Loss Review
ALCO	Asset/Liability Committee	NCUAB	NCUA Board
ALM	Asset Liability Management	NCUSIF	NCUSIF
ALS	Agricultural Lending Specialist	NFICU	Non Federally Insured Credit Union
ARDO ARDP	Associate Regional Director (of either Operations or Programs as appropriate)	NSPM	National Supervision Policy Manual
BAM	Board Action Memorandum	NWR	Net Worth Ratio
CCV	Consumer Compliance Violations Module (in AIRES)	NWRP	Net Worth Restoration Plan
CO	Central Office	OCIO	Office of the Chief Information Officer
CU	Credit Union	OIG	Office of the Inspector General
C&D	Cease and Desist	OSCUI	Office of Small Credit Union Initiatives
DE	District Examiner	ONES	Office of National Examinations and Supervision
DOI	Division of Insurance	PCA	Prompt Corrective Action
DOR	Document of Resolution	PCO	Problem Case Officer
DOS	Division of Supervision	PE	Principal Examiner
DCM	Division of Capital Markets	PWL	Preliminary Warning Letter
DSA	Division of Special Actions	QA	Quality Assurance
E&I	Office of Examination and Insurance	QAP	Quality Assurance Program
ED	Executive Director	QCR	Quality Control Report
EDS	Economic Development Specialist	RBP	Revised Business Plan
EF	Examiner Finding	RCMS	Regional Capital Market Specialists
EIC	Examiner-in-Charge	RD	Regional Director
EMC	Examination Management Console (in AIRES)	RDL	Regional Director Letter
ET	Earnings Transfer	RISO	Regional Office Systems Officer
ETW	Earnings Transfer Waiver	RLS	Regional Lending Specialist
FFIEC	Federal Financial Institutions Examination Council	RO	Regional Office
FICU	Federally Insured Credit Union	RR	Rules and Regulations
FISCU	Federally Insured State Chartered Credit Union	SC	Supervisory Committee
FPR	Financial Performance Review	SE	Supervisory Examiner
IRR	Interest Rate Risk	SEF	Supervisor Evaluation Form
ISO	Information System Officer	SME	Subject Matter Examiner
LTV	Loan-to-Value	SS	Safety and Soundness
LUA	Letter of Understanding and Agreement	SSA	State Supervisory Authority
MBL	Member Business Loan	WCC	Work Classification Code

## **Grouping Associations used in the NSPM**

Examiner(s)	Typically refers to DEs, PCOs and National Field Examiners but includes any type of specialized examiner (RLS, ALS, RCMS, and RISOs)
Supervisor(s)	Typically refers to DSAs, SEs and National Field Supervisors

In the chapters containing templates, the term “SE” was used on many of the templates. If your supervisor is another type of supervisor (a DSA for example), examiners will use “DSA” or other appropriate term as applicable.

## Helpful Hints for Hyperlinking

The NSPM contains hyperlinks to both internal bookmarks within the NSPM itself and external links to documents that reside in the e-library, Share Point, and/or outside websites. For external hyperlinks (links outside of the bookmarks within the NSPM), users will need to be connected to the internet and/or the NCUA server to access the links.

If you are using the Microsoft Word version of the NSPM, there is a helpful command you can place on your Quick Access Toolbar that will enable you to return to the place you were in the document before you hyper linked. It is the “back” button in Microsoft Word. You can add this button by going to File → Options → Quick Access Toolbar → and look for the “back” command (green left pointing arrow) to add to the right hand column (you may have to choose “All Commands” from the drop down to show “back” in the list. Once you add the command to the right side and click OK, the “back” button should appear on your top quick access toolbar. This command works for internal hyperlinks within the NSPM.

## Map of Regional Offices

