

TITLE 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g, that the Credit Union Division intends to readopt with substantive changes the rules cited as 04 NCAC 06B .0402; 06C .0101, .0201, .0202, .0209, .0301, .0302, .0304, .0306, .0307, .0311, .0312, .0313, .0401, .0402, .0404, .0409, .0501, .0601, .0707, .0801, .0901, .1001, .1002, .1201, .1301, .1302 and readopt without substantive changes the rules cited as 04 NCAC 06C .0203, .0407, .0502, and .1204.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): www.nccud.org

Proposed Effective Date: January 1, 2018

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): A public hearing may be demanded by written request to Tony Knox, Deputy Administrator of the North Carolina Department of Commerce Credit Union Division within 15 days of the publication of the Notice of Text. The Address is 205 W Millbrook Road, Suite 105, Raleigh, NC 27609.

Reason for Proposed Action: Session Law 2013-413 (also known as House Bill 74) established an existing rules review process through G.S. 150B-21.3A. The process requires agencies that go through rulemaking under Article 2A of the Administrative Procedures Act to review all its existing rules in the NC Administrative Code. We are completing that process and readopting rules that are necessary with and without substantive change.

Comments may be submitted to: Antonio (Tony) Knox, Deputy Administrator, North Carolina Credit Union Division, 205 W Millbrook Road, Suite 105, Raleigh, NC 27609; phone (919) 571-4888; fax (919) 420-7919

Comment period ends: November 14, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

CHAPTER 06 - CREDIT UNION DIVISION

SUBCHAPTER 06B - RULE-MAKING: DECLARATORY RULINGS AND CONTESTED CASES

SECTION .0400 - DECLARATORY RULINGS

04 NCAC 06B .0402 RESPONSE OF ADMINISTRATOR TO PETITION

(a) ~~Written Response.~~ A written response to the petition for a declaratory ruling, whether in the form of a declaratory ruling or a refusal to issue a declaratory ruling, shall be signed by the Administrator or his designated representative within 60 days following the date on which the petition was received by the Division; issued as set forth in G.S. 150B-4.

(b) ~~Refusal of Issue Declaratory Ruling.~~ The Administrator ~~may refuse to~~ shall issue a declaratory ruling ruling, if one of the following circumstances exists: except when:

- (1) the request for a declaratory ruling does not meet the requirements set forth in this Subchapter;
- ~~(1)(2)~~ (2) The the subject matter is one in which the Administrator has no authority to issue a binding decision;
- ~~(2)~~ (3) The situation is one in which the amount of work that would be required by the Administrator and staff to issue the declaratory ruling would be the same as or greater than the work required to process the request through normal procedures or a contested case proceeding;

- (3) ~~The petition does not state with enough specificity the factual situation involved, or the question is presented in such a manner that the Administrator cannot determine what the question is, or that the Administrator cannot respond with a specific ruling that will be binding on all parties; ruling;~~
- (4) ~~The the petitioner does not, in the opinion of the Administrator, possess sufficient interest in the question to be ruled on; or not qualify as a person aggrieved, as defined in G.S. 150B-2(6);~~
- (5) ~~For any other reason the Administrator finds the issuance of a declaratory ruling to be undesirable, the Administrator has previously issued a declaratory ruling, or issued a final agency decision in a contested case, in which the same facts were considered;~~
- (6) ~~the facts underlying the request for a declaratory ruling were considered at the time the Rule was adopted; or~~
- (7) ~~the subject matter of the petition is involved in pending litigation.~~

(c) When the Administrator refuses to issue a declaratory ruling, the Administrator shall notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.

Authority: G.S. 54-109.12; 150B-4.

SUBCHAPTER 06C - CREDIT UNIONS

SECTION .0100 - GENERAL INFORMATION

04 NCAC 06C .0101 DEFINITIONS

When used in this Subchapter, the following words and phrases shall have the following meaning; ~~meaning, except to the extent that any such word or phrase is specifically qualified by its context;~~

- (1) "Administrator" means the Administrator of State-Chartered ~~Credit credit Unions;~~ unions.
- (2) "Board of Directors" means at least five persons elected or appointed to oversee the management of each organization.
- (3) "Book value of loans" means the dollar amount of loans the ~~Credit credit Union union~~ union has on its books.
- (4) "Branch Office" means a facility ~~which that a Credit credit Union union~~ maintains and staffs at a location other than its main office to furnish Credit credit Union union services to its members.
- (5) "Capital" consists of shares, undivided earnings, and reserves.
- (6) "Commission" means the Credit Union Commission established by G.S. 143B-439.
- (7) "Corporate Credit Union" means a ~~Credit credit Union union~~ with an institutional field of membership, as set forth in G.S. 54-110.1, G.S. 54-110.1 and G.S. 54-110.2.
- (8) "Credit union" means a cooperative nonprofit corporation under G.S. 54-109.1 and organized for the purpose of promoting thrift among its members by affording them an opportunity for accumulating their savings; and to create for them a source of credit for loans for provident and productive purposes. It may undertake such other activities relating to the purpose of the corporation as its bylaws may provide, such Credit credit Union union being chartered under the General Statutes of North Carolina.
- (9) "Credit Union Service Organization" or "CUSO" means an organization formed and operated by ~~Credit-Union(s); credit union(s), or associations or organizations of Credit-Unions; credit unions, to primarily provide revenue generating services of the highest quality to Credit-Union members; Credit-Unions and others which are needed or wanted and can be provided efficiently and economically with a satisfactory overall rate of return on investment; financial or operational products or services to credit unions or credit union members.~~
- (10) "Deposits" means a preferred savings account on which the ~~Credit credit Union union~~ is obligated to pay a guaranteed interest rate on a continuing basis in such amounts and terms as the Board of Directors approve.
- ~~(11)(12)~~ "Dividend" means an operating expense of a ~~Credit-Union-which credit union that~~ is declared payable on share accounts from time to time by the Board of Directors. Dividends are paid as set forth in G.S. 54-109.54.
- ~~(12)(13)~~ "EDP" means electronic data processing.
- ~~(13)(14)~~ "Funds" means cash on hand or cash in the bank and investments.
- ~~(15)~~ "Interest on deposit accounts" ~~is an expense paid by the Credit Union for obtaining funds in a deposit account.~~
- ~~(16)~~ "Interest on loans" means an amount charged to a member for borrowing funds from a Credit Union at a specified rate as declared by the Board of Directors, not to exceed the maximum legal rate.
- ~~(17)~~ "Interest refund" means a percentage of the interest collected on loans which is refunded to those members who borrowed during a specific period pursuant to action of the Board of Directors.
- (14) "League" means the Carolinas Credit Union League, the trade association that serves credit unions in North and South Carolina.
- ~~(15)(18)~~ "Members" means persons or organizations who have been accepted for membership by either the Board, membership officer, or an executive committee, after having met qualifications of being within the field of membership.
- ~~(16)(19)~~ "Membership" ~~in~~ means a Credit credit Union union is limited to those persons or groups as stipulated in the bylaws of such Credit-Union; the credit union and set forth in G.S. 54-109.26.
- ~~(17)(20)~~ "Membership fee" means a fee that may be charged to applicants for membership as an entrance fee or as an annual membership fee as determined by the Board of Directors or as the bylaws may provide.
- ~~(18)(21)~~ "Reserve fund" means the portion of income to be entered on the books of the corporation to offset uncollectible loans in accordance with Section 54-109.86 of the General Statutes.
- ~~(19)(22)~~ "Shares" means the primary capital owned by the members and is comprised of the savings of the members. The par value shall be as the bylaws provide.
- ~~(20)(23)~~ Types of investment transactions ~~are~~ shall be defined as follows:

- (a) "Standby commitments" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.
- (b) "Cash forward agreement" means an agreement to purchase or sell a security at a future date more than five days after the agreement is made and requires mandatory delivery and acceptance.
- (c) "Reverse repurchase agreement" means an agreement whereby a credit union enters into an understanding to sell securities to a purchaser and to repurchase the same securities from that purchaser at a future date, regardless of the amount of consideration paid by the ~~Credit credit Union union~~ or the purchaser.
- (d) "Repurchase agreement" means an agreement whereby a ~~Credit credit Union union~~ enters into an agreement to buy securities from a vendor and to resell securities at a future date. Repurchase agreements may be the following of two types:
 - (i) "Investment-type repurchase agreement" means a repurchase that contains the essential elements of a sale of security as specified in Rule 1202(5) of this Subchapter.
 - (ii) "Loan-type repurchase agreement" means any repurchase ~~agreement~~ that does not qualify as an investment-type repurchase agreement.
- (e) "Future" means a standardized contract for the ~~future~~ delivery of commodities, including certain government securities, sold on designated commodities exchange.

(21)(24) "Unimpaired capital" consists of the shares, undivided ~~surplus surplus~~, and reserves less any known or probable losses, as determined by management.

Authority G.S. 54-109.1; 54-109.2; 54-109.12; 54-109.21(25); 54-109.26; 54-109.86; 143B-439.

SECTION .0200 - ORGANIZATION OF CREDIT UNIONS

04 NCAC 06C .0201 INCORPORATION OF STATE CHARTERED CREDIT UNIONS

(a) All credit unions desiring a state charter ~~must shall~~ be organized as a corporation under the General Statutes, Articles 14A to ~~15~~ 15A of Subchapter III, Chapter 54. ~~The Credit Union law requires that~~ In accordance with G.S. 54-109.2(e), the responsibility, character, and general fitness of the officers, directors, and committeemen ~~is such to shall~~ command the confidence of the members and the community, and ~~to warrant the belief by the Credit Union administrator~~ Administrator that the business of the ~~Credit Union credit union~~ will be operated honestly, fairly, and efficiently. The Administrator shall determine whether the proposed field of membership is favorable to the success of such credit union and such determination will include an evaluation of any overlap in field of membership with existing credit unions, the field of membership requirements, the number of potential members, availability of payroll deductions, data processing, and evaluation of feasibility studies as conducted by ~~North Carolina Credit Union the League, the Credit Union Division or others; Division, or other support groups for credit union start-ups,~~ the League, the Credit Union Division and other factors involved in its successful operation.

The following fees shall be charged when new credit unions are established:

- (1) five dollars (\$5.00) charter fee; and
- (2) twenty dollars (\$20.00)—investigation fee.

Authority G.S. 54-109.1; 54-109.2; 54-109.3; 54-109.11(3); 54-109.12; 143B-439.

04 NCAC 06C .0202 MINIMUM POTENTIAL MEMBERSHIP GUIDELINES

(a) Based on ~~experience; established policy policy,~~ and standards, and the history of the Credit Union Division chartering credit unions, the Administrator shall determine if the breadth and strength of the proposed field of membership is too broad or too weak to ~~effectively~~ operate as a credit union.

(b) ~~Established~~ The minimum potential membership guidelines for chartering credit unions in each of the various types of groups are shall be as follows:

TYPE OF GROUPS	MINIMUM POTENTIAL MEMBERSHIP
Occupational or Employer	300 Employees
Associational	500 Members
Residential or Community	1,000 Members
Multiple Occupational or Combination of Groups	500 Members

~~Notwithstanding the minimum potential membership numbers, In addition to the membership,~~ the makeup of the membership group and the level or support is shall be a key indicator for the degree of potential ~~success—success as determined by the Administrator.~~ Further, determination of the economic advisability of chartering a credit union is based upon such other things as level of group interest, leadership, willingness of management to become ~~involved; involved in credit union operations,~~ involved in credit union operations, local economic factors, and availability of other credit union service.

A group ~~which that~~ is close to the minimum and has exceptional prospects for successful credit union operation ~~may shall~~ be considered for a state credit union charter.

Authority G.S. 54-109.2; 54-109.3(3); 54-109.11(3); 54-109.12; 54-109.21(25); 54-109.26(b)

04 NCAC 06C .0203 FIELDS OF MEMBERSHIP (READOPTION WITHOUT SUBSTANTIVE CHANGES)

04 NCAC 06C .0209 OUT OF STATE OFFICE FACILITIES

Before a credit union may open a branch office in another state, a written request ~~must~~ shall be submitted to the Administrator of credit unions for his or her approval. ~~approval insofar as North Carolina law is concerned. (The~~ The Administrator may request necessary information and conduct an investigation in evaluating the ~~request.~~ request. It shall be the responsibility of the ~~Board~~ board of directors of each credit union operating in more than one state to seek the advice of an attorney to see ensure that the ~~Credit Union~~ credit union complies with applicable state laws of the other state(s).

Authority G.S. 54-109.6(a); 54-109.7; 54-109.11; 54-109.12; 54-109.16.

SECTION .0300 - BASIC INTERNAL CONTROLS: ACCOUNTING PROCEDURES AND OPERATION STANDARDS FOR STATE-CHARTERED CREDIT UNIONS

04 NCAC 06C .0301 GENERAL PROVISIONS

(a) Internal controls, accounting procedures, and operational standards adequate to safeguard the assets shall be established by all ~~Credit Unions;~~ credit unions.

(b) ~~Credit Unions~~ unions with ten million dollars (\$10,000,000) or more in assets shall follow generally accepted accounting principles (GAAP) for financial statement and report preparation. ~~Credit Unions~~ unions with less than ten million dollars (\$10,000,000) in assets may follow GAAP or use the procedures in the "Accounting Manual for Federal Credit Unions" ~~posted on the National Credit Union Administration website (www.ncua.gov).~~ Unions," including any subsequent amendments that are incorporated by reference, and can be found at no cost on the National Credit Union Administration website (www.ncua.gov).

(c) At least 60 days before a credit union converts its records from a manual to an Electronic Data ~~Processing;~~ Processing (EDP) system through an outside servicer or changes EDP services, a copy of the proposed contract and a description of the data processing system shall be submitted to the Administrator for review and approval. If an in-house EDP system or the sponsoring company's EDP facilities are to be used, the Administrator shall be notified in writing of the proposed change before ~~extensive~~ planning and system programming begins. ~~Contracts and agreements;~~ agreements for EDP systems shall conform with the ~~following as a minimum;~~ following:

- (1) ~~The~~ the right of the Administrator or his or her representative to request and receive ~~directly~~ from the service center any reports, summaries, or information contained in or derived from the data in the possession of the service center relating to the ~~credit union;~~ union;
- (2) ~~Terms~~ terms of the contract, including dates for the beginning and end with disclosure of the charges to be ~~incurred;~~ incurred;
- (3) ~~Notice~~ notice of the termination of the servicing contract or agreement, consistent with industry ~~standards;~~ standards;
- (4) ~~The~~ the description of the equipment, services, reports, location of original documents and source ~~data;~~ data and method of transmittal of input information to the service center ~~center;~~ and applicable controls; ~~controls~~;
- (5) ~~Maintenance~~ a maintenance agreement that is consistent with industry ~~standards;~~ standards;
- (6) ~~Availability~~ availability of technically qualified ~~personnel;~~ personnel;
- (7) ~~The~~ the due diligence and review by the ~~Board~~ board of ~~Directors~~ directors or legal ~~counsel;~~ counsel; and
- (8) ~~Fidelity~~ fidelity bond coverage for service center personnel and for losses due to system ~~errors;~~ errors and insurance coverage for losses from fire, disaster, or other causes resulting in an interruption of service.

~~(d) Requests for modification of the rules and regulations in regard to the general provisions shall be submitted in writing to the Administrator.~~

Authority G.S. 54-109.11; 54-109.12; 54-109.16; 54-109.17(a); 54-109.17(b)

04 NCAC 06C .0302 PROCEDURES

The basic internal controls, accounting ~~procedures~~ procedures, and operation standards for all credit unions are shall be as follows:

- (1) ~~An~~ an adequate general ledger and detailed cash journal shall be maintained for the control of all transactions of the ~~Credit~~ credit ~~Union;~~ union;
- (2) ~~A~~ a record of all correcting and adjusting entries, with an explanation of each entry, shall be ~~maintained;~~ maintained;
- (3) ~~For~~ For manual and computerized accounting systems, all receipts and disbursements shall be recorded and posted daily to cash journal and subsidiary ~~accounts;~~ accounts;
- (4) ~~Deposits~~ deposits in the bank or credit union shall consist of an entire day's receipts as entered in the journal and cash record. If amounts are less than three hundred dollars (\$300.00), more than one day's total receipts may be combined in a single deposit provided that no funds are shall be held more than three banking ~~days;~~ days;
- (5) ~~Security~~ security shall be provided (cash drawer and lockbox) at a minimum for storage of ~~funds;~~ funds;
- (6) ~~Credit~~ credit union funds shall be kept separate from all other ~~funds;~~ funds;
- (7) ~~Cash~~ cash shall be balanced at the end of each working day, and a record made by each teller detailing coins, currency, checks, and other items counted as ~~cash;~~ cash;
- (8) ~~A~~ a "cash over and short" account shall be maintained in the expense ledger, with a record showing the name of each person responsible for each ~~difference;~~ difference;
- (9) ~~A~~ a pre-numbered receipt slip ~~or other original record;~~ record shall be made and preserved covering each payment ~~received;~~ received;

- (10) All ~~all~~ bank or credit union accounts shall be reconciled at least monthly and ~~such the reconciliations preserved, shall be maintained~~ as set forth in Rule .1002 of this ~~Subchapter, Subchapter:~~
- (11) A ~~a~~ duplicate of itemized bank or credit union deposit slips, or other comparable detailed item record, shall be ~~preserved, maintained,~~ as set forth in Rule .1002 of this ~~Subchapter, Subchapter:~~
- (12) The ~~the~~ exact status of all the credit union's funds, including investments and funds held by agents or ~~attorneys, attorneys,~~ shall be determinable at all ~~times, times;~~
- (13) ~~Cheeks checks~~ shall be pre-numbered by the printer and not signed in blank in advance of issue. Facsimile signature plates shall be maintained in the credit union vault under dual ~~control, control;~~
- (14) ~~Disbursements disbursements~~ shall be supported by invoices, vouchers, or other explanations of record, each showing the nature or purpose of each ~~disbursement, disbursement;~~
- (15) ~~Dual dual~~ control shall be maintained over all negotiable investment ~~securities, securities;~~
- (16) ~~Members' members'~~ accounts shall be posted and balanced ~~not less frequently than~~ monthly and supported by member trial balance or adding machine tapes, identified, dated, and ~~preserved, maintained;~~
- (17) A ~~a~~ trial balance of the general ledger shall be prepared within 15 ~~working business~~ days from the close of business of the last day of each month and financial statements ~~prepared prepared;~~ therefrom
- (18) ~~Erasures and eradications for~~ correction of errors in records ~~are prohibited; corrections must be~~ shall be visible and approved by an authorized person, that shall be approved by the ~~Board board~~ of ~~Directors, directors;~~
- (19) ~~Members' passbooks shall be held in the Credit Union office only if authorized by the Board of Directors;~~
- (20)(19) A signed membership card file covering all accounts shall be ~~maintained, maintained;~~
- (21)(20) ~~Payment payment~~ of dividends or interest on accounts shall be accomplished by check or by credit to the individual account. A record in support of dividend or interest paid by check or credited to accounts shall be ~~preserved, maintained;~~
- (22)(21) A ~~a~~ cross-index card record shall be maintained for each co-maker showing the date, name, and original amount of each note on which the individual appears as ~~co-maker, co-maker;~~
- (23)(22) Minutes minutes of meetings of the ~~Board board~~ of ~~Directors, directors~~ shall record in detail all of its business transactions and be signed by the presiding officer and the secretary. Upon meeting as a ~~Board board~~ of ~~Directors, directors,~~ the secretary or designated member shall make a matter of record in the minutes of the meeting all written communications from the ~~Division, Division;~~
- (24)(23) The ~~the~~ supervisory committee shall have work papers to support its audit report. The reports and work papers shall be retained and made available for review by the ~~state, Administrator,~~ as set forth in Rule ~~1002, 1001~~ of this ~~Subchapter, Subchapter;~~
- (25)(24) A ~~a~~ report of actions taken by the credit committee or loan officers shall be prepared, signed signed, and ~~preserved, maintained,~~ as set forth in Rule .1002 of this ~~Subchapter, Subchapter;~~
- (26)(25) Minutes minutes of each annual meeting of the members of the ~~Credit credit~~ Union union shall record all business ~~transacted, transacted;~~
- (27)(26) All ~~all~~ books and records of the ~~Credit credit~~ Union union shall have protection from fire and other hazards at all times. Active books and records of the ~~Credit credit~~ Union union should be located at the principal office at all ~~times, times;~~
- (28)(27) ~~Dormant dormant~~ accounts shall be controlled to prevent improper ~~withdrawal, withdrawal;~~
- (29)(28) Annual annual vacations of at least five consecutive working days (during periods when proofs of subsidiary ledgers are being made) shall be taken by each employee having access to cash and the general ledger. During the vacation, the employees shall remain ~~continuously absent, absent;~~
- (30)(29) A ~~a~~ record shall be maintained that shall ~~at all times~~ show the tax and insurance status of each piece of real estate securing the ~~Credit credit~~ Union's union's investment of funds in real estate mortgage ~~loans, loans; and~~
- (31)(30) All ~~all~~ tax liabilities shall be determined and paid in accordance with ~~the law, State and federal laws.~~

Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17; 54-109.19; 54-109.92.

04 NCAC 06C .0304 MANAGEMENT DUTIES

All credit unions shall conduct their business and the selection of their employees using a sufficiently high degree of management and business skills to assure the safe and sound operation of the ~~Credit Union, credit union.~~ To maintain familiarity with current developments in the field of credit union management, ~~services services,~~ and operations as may be necessary, all management personnel and employees of credit unions ~~should shall~~ avail themselves of the educational opportunities as may be provided by the ~~N.C. Credit Union League, the Credit Union Division, and others, other trade associations, credit union support groups, and other industry training organizations.~~

Authority G.S. 54-109.12; 54-109.19; 54-109.35; 54-109.36, 54-109.92.

04 NCAC 06C .0306 DISPLAY OF FINANCIAL STATEMENTS

Each credit union shall display at its main office and all branches, copies of its monthly financial statement. ~~Such The~~ statement shall be posted in ~~both a conspicuous and available manner, so as to be~~ a manner that is accessible for inspection by members.

Authority G.S. 54-109.12.

04 NCAC 06C .0307 LISTING OF OFFICIALS AND OPERATING HOURS

- (a) Each credit union shall notify the Administrator of the names and addresses of its officers, directors, committee members of the ~~Credit credit Committee committee and Supervisory Committee, supervisory committee, managers managers, or~~ and internal auditors.
- (b) Each credit union shall notify the Administrator of its days and hours of operation.
- (c) The credit union shall notify the Administrator of any changes to the information required by this Rule within ~~40~~ 15 business days.

Authority G.S. 54-109.12; 54-109.36.

04 NCAC 06C .0311 FIDELITY AND SURETY BONDS AND INSURANCE COVERAGE

- (a) The ~~Board board~~ of ~~Directors directors~~ of a ~~Credit Union credit union~~ shall purchase a blanket fidelity bond as required by G.S. 54-109.44(2). Fidelity bonds shall provide coverage for the fraud and dishonesty of all employees, directors, officials, and supervisory and credit committee members.
- (b) Every ~~Credit Union credit union~~ shall maintain the minimum bond and insurance coverage as required by G.S. 54-109.11(5).
- (c) No form of surety bond shall be used except as is approved by the Administrator as set forth in G.S. 54-109.11(5). The approved bond forms shall be Credit Union Blanket Bond 500 Bond Series, plus faithful performance rider, Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of America, or an equivalent approved Bond Form including a faithful performance rider on a current listing listing, including any subsequent amendments to the bond forms. The approved bond forms are incorporated by reference and can be found at no cost on the Credit Union Division website (www.nccud.org). These bond forms shall be considered the minimum coverages required for the purpose of this section. ~~Rule.~~ The approved bond forms in this Paragraph provide faithful performance coverage for all employees and officials. Other forms, or changes in the amount of bond coverage, shall be approved by the Administrator based upon the applicable State rules and laws, and as set forth in G.S. 54-109.11(5).
- (d) Maximum deductible limits may be applied to the required coverage contained in 500 Bond Series, and Standard Form No. 23, as specified in this Paragraph:

\$0 to 100,000	0
\$100,001 to \$250,000	\$1,000
\$250,000 to \$1,000,000	2,000
Over \$1,000,000	2,000 plus 1/1000 of total assets up to a maximum of \$200,000

Deductibles in excess of those provided in this Paragraph shall be approved by the Administrator based upon the applicable State rules and laws.

- (e) In considering a request to deviate from the bond coverage and deductible amounts set forth in this Rule, the Administrator shall consider the following factors about the credit union:
 - (1) ~~Financial~~ financial strength;
 - (2) ~~Net~~ net worth;
 - (3) ~~Return~~ return on assets;
 - (4) ~~Quality~~ quality of assets; and
 - (5) ~~Capital, capital, Assets, assets, Management, management, Earnings, earnings, and Liquidity liquidity,~~ (CAMEL) rating, used by the Credit Union Division and NCUA to evaluate the soundness of credit unions on a uniform basis.

Authority G.S. 54-109.11(5); 54-109.12; 54-109.44(2).

04 NCAC 06C .0312 INSURANCE AND GROUP PURCHASING

Credit unions may purchase, ~~or make available,~~ or enter into cooperative marketing arrangements (group purchasing) to facilitate its members' voluntary purchase of insurance and ~~such other goods and services as are~~ that shall be in the interest of improving economic and social conditions of its members. Prior to entering into any agreement with a third party to provide goods, services, ~~and-or and~~ and insurance to its members, the ~~Credit Union credit union~~ board of directors ~~should shall~~ shall ensure that the service is professionally researched, is needed and wanted by the members, is accurately clearly communicated, and is carefully monitored and evaluated to ensure that such the action will not have an adverse effect on the safety and soundness of the ~~Credit Union credit union.~~

Authority G.S. 54-109.12; 54-109.21; 54-109.75; 54-109.77; 54-109.92(a)(5).

04 NCAC 06C .0313 CREDIT UNION SERVICE ORGANIZATION (CUSO)

- (a) For purposes of this Section, a "credit union service organization" (CUSO) is an entity defined in Paragraph Rule .0101(24)(9) of these Rules, this Subchapter.
- (b) The purpose of a ~~credit union service organization CUSO~~ is to primarily provide revenue-generating services of the highest quality to credit union members, credit unions, and others which are needed or wanted and can be provided efficiently and economically with a satisfactory overall rate of return on investment. financial or operational products or services to credit unions or credit union members. ~~It may~~ A CUSO may provide, provide but is not limited to: any or all of the following functions or services:
 - (1) credit union operational functions including ~~but not limited to,~~ credit card and debit card services, ATM services, accounting systems, data processing, management training and support, payment item processing, record retention and storage, locator services, research services, debt collection services, credit analysis and loan servicing, and coin and currency services;
 - (2) family financial services including including but not limited to, financial planning, and ~~counseling, counseling,~~ including retirement ~~counseling, counseling,~~ estate planning and income tax preparation, developing and administering IRA and Keogh plans and other personnel benefit plans, and provision of trust services including acting as trustee or in other similar fiduciary capacities;

- (3) acting as agent for the sale of liability, casualty, automobile, life, health, accident, title, and other insurance;
- (4) personal property leasing and development of leasing plans;
- (5) any preapproved activities or services set forth in 12 C.F.R. 712.5;
- (5)(6) other functions and services, as determined by the Board board of Directors, directors.

(c) A credit union may, either by itself or by agreement with other entities, form, invest in, or lend to a ~~credit union service organization~~, CUSO, within the limits specified by State credit union law. Before investing in or lending to the CUSO, a credit union shall obtain a written agreement from the CUSO that will satisfy the requirements set forth in 12 C.F.R. 712.3 (d), and any subsequent amendments are incorporated by reference and can be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

(d) A credit union investing in or lending to a ~~credit union service organization~~ CUSO must shall submit call reports or any other information upon request by the Administrator.

Authority G.S. 54-109.2(b)(5); 54-109.21(4); 54-109.21(14); 54-109.21(25).

SECTION .0400 - LOANS

04 NCAC 06C .0401 DELINQUENT LOANS AND LOAN LOSSES

(a) Monthly Schedule of Delinquent Loans. Each credit union shall, at the end of each month, prepare and review a schedule of delinquent loans ~~which that shall list in columnar form~~ the account number, ~~names name(s) of borrowers, borrower(s)~~, date of loan, date of last payment, original amount of loan and outstanding balance of loan at date of schedule, together with space to note current action or status.

The unpaid balance of loans shall be set apart in columns of the schedule of delinquent loans ~~which will that shall~~ indicate the extent of delinquency as determined by the delinquent installments according to the note contract, as follows:

- (1) Loans on which the delinquent installments are ~~two months~~ 60 days but less than ~~six months~~ 180 days past due;
- (2) Loans on which the delinquent installments are ~~six months~~ 180 days but less than ~~12 months~~ 365 days past due;
- (3) Loans on which the delinquent installments are past due ~~12 month~~ 365 days or more.

Similar formats customized to a credit union's needs shall be acceptable as long as the report described in this Section may be produced upon request.

(b) Allowance for Loan Losses.

- (1) Each credit union shall establish and maintain ~~such the~~ reserves as may be required by ~~the Act or by regulation, State laws and the rules of this Subchapter,~~ or in special cases by the ~~Administrator, Administrator~~ as set forth in G.S. 54-109.86, All Credit Unions. Each credit union shall establish an Allowance for Loan Losses Account. The Allowance for Loan Losses Account is not an addition to but a part of the Regular Reserve as required by statute.
- (2) The maintenance of a valuation Allowance for Loan Losses Account shall not eliminate the requirement for transferring a percentage of gross income before the payment of each dividend to the ~~Regular Reserve~~ regular reserve as required by ~~Credit Union Laws, State credit union laws and rules of this Subchapter.~~
- (3) ~~As a minimum, adjustments~~ Adjustments to the valuation Allowance for Loan Losses shall be made prior to the distribution or posting of any dividend to the accounts of all the members so that the valuation allowance established ~~fairly~~ presents the value of loans and anticipated losses.
- (4) Adjustments to the valuation Allowance for Loan Losses ~~will shall~~ be recorded in the expense account "Provision for Loan Losses."
- (5) Dividends shall not exceed the amount available for that purpose after provisions have been made for the statutory transfer to the Regular Reserve Account and the removal of any deficit in the Regular Reserve Account.
- (6) Each credit union shall review the Allowance for Loan Losses Account quarterly for accuracy prior to completion of the call report. An independent party shall annually review the credit union's (Allowance for Loan Losses Account. The independent party shall have no connection to the credit approval, the estimation process, the methodology, and its application.

Authority G.S. 54-109.12; 54-109.17; 54-109.86; 54-109.87.

04 NCAC 06C .0402 CHARGE-OFF OF UNCOLLECTABLE LOANS

(a) All credit unions shall have a Charge-Off of Uncollectable Loans Policy. All losses resulting from uncollectable loans shall be charged against the Allowance for Loan Losses or any special reserve required by the Administrator.

(b) A record shall be maintained of all loans charged off. ~~Such The~~ record shall contain the following information: account number, name, original date, amount of original loan, security, balance at time of charge-off, efforts made to collect, and ~~what what~~, if any, recovery has been made on the security. This record shall be kept current and made available to the examiners at each examination.

(c) Any loans delinquent ~~12 months~~ 365 days or more, unless there is a high probability of no loss, or if the loan is secured by real estate where the borrower is demonstrating a reasonable level of repayment, or the loan is in the process of legal action, shall will be charged off in accordance with Paragraph (a) of this Rule. Any loan deemed uncollectable, because collection efforts are nonproductive regardless of the number of days delinquent, shall be charged off in accordance with Paragraph (a) of this Rule.

(d) Any recovery of charged-off loans shall be credited to the Allowance for Loan Losses.

Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17.

04 NCAC 06C .0404 LINE OF CREDIT LOANS

(a) ~~Limitations~~: A credit union shall not make a line of credit loan that exceeds the stated sum or specified period of time approved by the ~~Board board~~ of directors of that credit union.

(b) ~~Reserves~~: A credit union shall maintain for a period of one month, beginning on the seventh day of each month, a reserve, ~~which that~~ shall consist of cash on hand or legal investments that mature in one year or less, in an amount not less than five percent of the aggregate unused portion of its line of credit loans determined as of the close of the previous month. Not more than 20 percent of the required reserve shall be in direct United States Government obligations. The ~~Credit Union credit union~~ shall keep current records of the aggregate unused portion of its line of credit loans and reserves, and the Administrator may require periodic or special reports based on these records.

Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17; 54-109.70; 54-109.71(b); 54-109.82.

04 NCAC 06C .0407 COMMERCIAL LENDING AND MEMBER BUSINESS LOANS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

04 NCAC 06C .0409 LOAN LIMITATIONS

(a) No loan or line of credit advance shall be made to an individual ~~member member~~, or immediate family member, as defined in Rule .0407(b)(1)(D); if such a loan or line of credit advance ~~would cause~~ causes that member along with that member's immediate family to be indebted to the credit union in an aggregate amount exceeding 10 percent of the credit union's unimpaired shares and ~~surplus~~; surplus as set forth in G.S. 54-109.67. For purposes of this Section Rule "unimpaired shares" shall mean shares without any assignments or pledges. "Surplus" shall mean undivided earnings and reserves.

(b) In the case of member business loans, additional loan limitations apply as set forth in Rule .0205(d) of this Subchapter and Rule .0407(b)(2)(C)(i) of this Section, pursuant to 12 C.F.R. Part 723 including any subsequent amendments that are incorporated by reference and can be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

Authority G.S. 54-109.12; 54-109.67.

SECTION .0500 - IMPAIRMENT AND INSOLVENCY

04 NCAC 06C .0501 IMPAIRMENT

(a) An impairment of share capital shall be deemed to exist if the ~~Credit Union credit union~~ is unable to provide for Allowance for Loan Losses, or any other reserve required by the Administrator.

(b) In determining the degree of ~~capital impairment which~~ impairment of capital that may exist, loans receivable shall be valued at book value less the amount of reserves required. The total of the credit union's assets, valued according to generally accepted accounting principles, including loans receivable, less current and long-term liabilities, shall be considered to be net assets. If share deposit balances exceed net assets so determined, an impairment shall be deemed to exist.

(c) Whenever it is determined that there exists an impairment of capital, the ~~Board board~~ of directors shall notify the Administrator. If required by the Administrator, pursuant to G.S. 54, Article 14A to 14N, the ~~Board board~~ of directors shall disclose to all shareholders the impairment of capital and ~~such other matters regarding the financial condition of the Credit Union credit union~~, as deemed relevant by the Administrator.

Authority G.S. 54-109.12; 54-109.92; 54-109.93.

04 NCAC 06C .0502 INSOLVENCY (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

SECTION .0600 - DIVIDENDS: DEPOSITS AND INTEREST REBATE

04 NCAC 06C .0601 DIVIDENDS

(a) The ~~Board board~~ of directors of any credit union may declare dividends pursuant to G.S. 54-109.44 (5) and G.S. 54-109.54.

(b) No dividend may shall be declared or paid unless the ~~Credit Union credit union~~ has satisfied the statutory reserve requirements set forth in G.S. 54-109.86 and any other reserve account that ~~is required to~~ shall be maintained ~~in the discretion of~~ as prescribed by the Administrator.

Authority G.S. 54-109.12; 54-109.44(5); 54-109.54; 54-109.86; 54-109.87.

SECTION .0700 - ACCOUNTS

04 NCAC 06C .0707 STATEMENTS OF ACCOUNTS

~~Each credit union member shall be furnished, at least semiannually, statements of accounts. Such statements shall clearly reflect all transactions involving a member's accounts during the previous period. Any member, pursuant to request, shall receive within a reasonable time, a statement reflecting his current outstanding balances in his accounts. A passbook shall suffice as a statement of accounts when not inconsistent with state and federal law, and shall be updated when presented by holder.~~

Authority G.S. 54-109.12.

SECTION .0800 - REPORTS TO ADMINISTRATOR

04 NCAC 06C .0801 FINANCIAL STATEMENTS AND OTHER INFORMATION

Each credit union shall furnish a report of condition to the Administrator due on the same date as designated by the federal insurer in January, April, July, and October. The report shall be submitted to the Administrator on forms supplied by the federal insurer for that purpose. The Administrator shall assess fines and penalties for reports not timely filed, filed within 15 days, as set forth in G.S. 54-109.13 and G.S. 54-109.15(b).

Authority G.S. 54-109.12; 54-109.13; 54-109.15; 54-109.16

SECTION .0900 - PENSION PLANS

04 NCAC 06C .0901 CREDIT UNION AS CUSTODIAN

A credit union is authorized to act as custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension plan which that qualifies or qualified for specific tax treatment under Section 401(d) or 408 of the Internal Revenue Code, including any subsequent amendments that are incorporated by reference and can be found at no cost on the Internal Revenue Code website www.irs.gov and at www.gpo.gov, for its members or groups or organizations of its members, ~~provided the members.~~ The funds of such plans ~~are~~ shall be invested solely in share accounts of the ~~Credit Union~~ credit union. All funds held in a custodial capacity ~~must~~ shall be maintained in accordance with applicable laws and rules and regulations State and federal laws, Rules and federal regulations, as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other State and federal authority exercising jurisdiction over such custodial accounts. The ~~Credit Union~~ credit union shall maintain individual records for each participant which ~~show~~ that shows in detail all transactions relating to the funds of each participant or beneficiary.

Authority G.S. 54-109.12; 54-109.17; 54-109.21(21).

SECTION .1000 - RETENTION OF RECORDS

04 NCAC 06C .1001 PERMANENT RECORD

(a) Each ~~Credit~~ credit Union union shall retain its records in a manner consistent with reasonable business practices and applicable state State and federal laws, ~~rules~~ Rules, and federal regulations.

(b) The ~~Credit~~ credit Union union shall permanently retain the original records of the ~~Credit Union's~~ credit union's charter, bylaws, and any amendments to those documents.

(c) The following records shall be retained permanently in their original form or in any electronic or digital form that permits their retrieval and replication:

- (1) the minutes of meetings of members and of the board of directors;
- (2) audit reports;
- (3) copies of the examination reports of the Credit Union Division;
- (4) rulings and opinions from the Credit Union Division; and
- (5) ~~signature cards;~~
- (6) ~~journal and cash record;~~
- (7) ~~general ledger;~~
- (8) ~~loan and shares subsidiary ledgers;~~
- (9) ~~bank reconciliations; and~~
- (10) ~~a list of all records destroyed;~~
- (5) supervisory committee minutes and audits.

(d) ~~Credit Unions shall reference 12 C.F.R. Part 749 Appendix A for retention schedule guide lines.~~

Authority G.S. 54-109.12; 54-109.17.

04 NCAC 06C .1002 NONPERMANENT RECORDS

(a) Each ~~Credit~~ credit Union union shall retain nonpermanent records as defined in Paragraph (b) of this Rule, in a manner consistent with reasonable business practices and in accordance with this Section and applicable state State and federal laws, ~~rules~~ Rules, and federal regulations. The board of directors of the credit union shall determine the length of time that any nonpermanent record not specified in this Rule shall be retained based upon reasonable business practices and the applicable State and federal laws, Rules, and federal regulations.

(b) ~~Nonpermanent records shall include any Credit Union~~ All records not referenced in Rule .1001 of this Section. Section shall be considered nonpermanent records.

(c) ~~Nonpermanent records shall be kept in the original, or any electronic or digital form that permits their retrieval and replication. The Board of Directors of the Credit Union shall determine the length of time that each nonpermanent record is to be retained based upon reasonable business practices and the applicable state and federal laws, rules, and regulations.~~

(c) The following nonpermanent records shall be retained in their original form or in any electronic or digital form that permits their retrieval and replication:

GENERAL LEDGER

<u>General Ledger</u>	<u>15 years</u>
<u>Journal Cash (Journal of original entry)</u>	<u>15 years</u>
<u>Signature Cards (after the account is closed)</u>	<u>10 years</u>
<u>Shares and Deposits Subsidiary Ledger</u>	<u>10 years</u>
<u>Bank Reconciliations</u>	<u>10 years</u>
<u>Registers: (Check, Money Orders, and Collateral)</u>	<u>10 years</u>
<u>Record of Receipts (Deposit tickets, Payroll Deduction Records)</u>	<u>10 years</u>
<u>Withdrawal Slips: (Cash Payments, Check Payments)</u>	<u>10 years</u>
<u>Cancelled Checks, Money Orders, Cancelled Checks</u>	<u>10 years</u>
<u>Bank Statements</u>	<u>10 years</u>
<u>Bank Deposit Slips</u>	<u>10 years</u>
<u>Invoices for Sale or Purchase of Securities</u>	<u>10 years</u>

ADMINISTRATIVE

<u>Certificates and Licenses to Operate Under Programs of Various Government Agencies After the Term of the Program Expires</u>	<u>10 years</u>
<u>Minutes of the Credit Committee Meetings</u>	<u>10 years</u>
<u>Charged off Loans (Note and Application)(after the date of the charge off)</u>	<u>10 years</u>
<u>Charge off Ledger Sheet</u>	<u>10 years</u>

LEGAL JUDICIAL AUTHORIZATION

<u>Attachments or Garnishments</u>	<u>10 years</u>
<u>Bond Claims</u>	<u>10 years</u>
<u>Court Orders</u>	<u>10 years</u>

MEMBER RECORDS

<u>Transaction Records</u>	<u>10 years</u>
<u>Members Periodic Statements</u>	<u>10 years</u>
<u>Month End Trial Balance</u>	<u>2 years</u>
<u>Signature Cards (after the account is closed)</u>	<u>10 years</u>

LOANS (COMMERCIAL, CONSUMER, AND MORTGAGE)

<u>Subsidiary Loan Ledgers</u>	<u>10 years</u>
<u>Delinquent Loan Schedules</u>	<u>5 years</u>
<u>Loan Applications (after the loan is paid)</u>	<u>2 years</u>

OTHER

<u>Tax Records</u>	<u>10 years</u>
<u>Personnel Records</u>	<u>10 years</u>
<u>Expense Reimbursement Forms</u>	<u>5 years</u>
<u>Reports: Statistical Reports submitted to NCUA or Credit Union Division</u>	<u>10 years</u>
<u>Escheat records, including communications between the credit union and the NC Department of State Treasurer and records containing the information required to be included in the report filed with the State Treasurer</u>	<u>10 years</u>

Authority G.S. 54-109.12; 54-109.17.

SECTION .1200 - INVESTMENTS

04 NCAC 06C .1201 INVESTMENT ACTIVITIES

The North Carolina Credit Union Law, Article 14-I, specifies the investments which credit unions are authorized to make, which includes loans to members and the purchase of securities guaranteed by the U.S. government. Investments shall be made pursuant to G.S. 54, Article 14 I, Transactions The Administrator shall consider transactions, such as agreements or options to buy or sell government securities at a future date, which date that are merely speculative in nature, are considered unsafe and unsound practices.

Authority G.S. 54-109.12; 54-109.82; 54-109.92(a).

04 NCAC 06C .1204 FEDERAL FUNDS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

SECTION .1300 - RESERVES

04 NCAC 06C .1301 SPECIAL RESERVES FOR LIQUIDITY

(a) ~~(b)~~ Credit unions shall have a Liquidity Policy and Contingency Funding Plan as set forth in 12 C.F.R. Part 741.12, including any subsequent amendments, which are incorporated by reference and can be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

(a) ~~(b)~~ Credit unions with assets of two million (\$2,000,000) or more and credit unions which ~~that~~ offer share draft accounts shall maintain a reserve of liquid assets (liquidity reserve) equal to a minimum of five percent (~~5 percent~~) of the total dollar value amount of the ~~Credit credit Union's union's~~ liability base.

(b) ~~(c)~~ The liability base shall consist of shares, deposits, and notes payable with a maturity of less than one year. ~~Specifically pledged Pledged~~ shares or deposits or both ~~are shall be~~ exempted up to the amount of the loans.

(e) ~~(d)~~ The liquidity reserve shall consist of cash, ~~shares shares~~, and deposits in the National Credit Union Administration Central Liquidity Facility, ~~corporate credit unions, or other financial institutions~~, and investments with a maturity of less than one year as authorized under ~~G.S. 54-109.82(3)(4)(5)(9)(10) and (12) of the North Carolina Credit Union laws~~ by G.S. 54-109.82 (3),(4),(5),(9),(10), and (12). Government securities with a maturity of more than one year may be ~~included included~~, provided securities are carried at the lower of cost or market and adjusted monthly on a ~~consistent regular~~ basis. Documentary evidence ~~must shall~~ be kept on file supporting the adjustments for a period of 18 months.

(d) ~~(e)~~ The liquidity reserve shall be determined monthly, not later than the tenth day of each month, and shall be based on the ~~Credit credit Union's union's~~ liability base as the last day of business of the preceding month.

(e) ~~(f)~~ The liquidity reserve ~~can only shall~~ be used to satisfy contractual line of credit agreements, share and deposit withdrawals. In the event the liquidity reserve falls below the required amount the ~~Credit credit Union union must shall~~ immediately notify the Administrator of ~~Credit Unions~~. The ~~Credit credit Union union will shall~~ have 60 days to replenish the liquidity reserve.

(f) ~~(g)~~ In any special case, the Administrator shall have the authority to require a liquidity reserve for credit unions with assets of less than two million dollars (\$2,000,000) if ~~deemed necessary~~ to meet the liquidity needs of its ~~creditors; creditors~~, as set forth in G.S. 54-109.86 (c).

Authority G.S. 54-109.12; 54-109.86 (b); 54-109.86(c)(2).

04 NCAC 06C .1302 OTHER RESERVES

(a) Regular reserves shall be maintained as set forth in G.S. 54-109.86, 54-109.86 of the North Carolina Credit Union laws.

(b) Special reserves for delinquent loans and reserves for line of credit shall be maintained as required in Rules .0401 and .0404(b) of ~~these Rules and Regulations; this Subchapter~~.

Authority G.S. 54-109.12; 54-109.86(a)(b)(c)