

“(i) uninsured; and

“(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.”

2010—Subsec. (j). Pub. L. 111-203 amended subsec. (j) generally. Prior to amendment, text read as follows: “For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union (such that the inspector general of the Board must make a report), a loss is material if it exceeds the sum of—

“(1) \$10,000,000; and

“(2) an amount equal to 10 percent of the total assets of the credit union at the time at which the Board initiated assistance under section 1788 of this title or was appointed liquidating agent.”

2006—Subsec. (n). Pub. L. 109-351, §726(25), inserted “any action” before “that is required”.

Subsec. (o)(2)(A). Pub. L. 109-351, §504, inserted “the” before “retained earnings balance” and “, together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined” before semicolon.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

#### EFFECTIVE DATE

Pub. L. 105-219, title III, §301(e), Aug. 7, 1998, 112 Stat. 931, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), section 216 of the Federal Credit Union Act [12 U.S.C. 1790d] (as added by this section) shall become effective 2 years after the date of enactment of this Act [Aug. 7, 1998].

“(2) RISK-BASED NET WORTH REQUIREMENT.—Section 216(d) of the Federal Credit Union Act (as added by this section) shall become effective on January 1, 2001.”

#### REGULATIONS

Pub. L. 105-219, title III, §301(d), Aug. 7, 1998, 112 Stat. 930, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the Board shall—

“(A) publish in the Federal Register proposed regulations to implement section 216 of the Federal Credit Union Act [12 U.S.C. 1790d] (as added by subsection (a) of this section) not later than 270 days after the date of enactment of this Act [Aug. 7, 1998]; and

“(B) promulgate final regulations to implement section 216 not later than 18 months after the date of enactment of this Act.

“(2) RISK-BASED NET WORTH REQUIREMENT.—

“(A) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Board shall publish in the Federal Register an advance notice of proposed rulemaking, as required by section 216(d) of the Federal Credit Union Act, as added by this Act.

“(B) FINAL REGULATIONS.—The Board shall promulgate final regulations, as required by section 216(d) not later than 2 years after the date of enactment of this Act.”

#### CONSULTATION REQUIRED

Pub. L. 105-219, title III, §301(c), Aug. 7, 1998, 112 Stat. 930, provided that: “In developing regulations to implement section 216 of the Federal Credit Union Act [12 U.S.C. 1790d] (as added by subsection (a) of this section), the Board shall consult with the Secretary, the Federal banking agencies, and the State officials having jurisdiction over State-chartered insured credit unions.”

#### REPORT TO CONGRESS

Pub. L. 105-219, title III, §301(f), Aug. 7, 1998, 112 Stat. 931, provided that: “When the Board publishes proposed

regulations pursuant to subsection (d)(1)(A) [set out above], or promulgates final regulations pursuant to subsection (d)(1)(B) [set out above], the Board shall submit to the Congress a report that specifically explains—

“(1) how the regulations carry out section 216(b)(1)(B) of the Federal Credit Union Act [12 U.S.C. 1790d(b)(1)(B)] (as added by this section), relating to the cooperative character of credit unions; and

“(2) how the regulations differ from section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831o], and the reasons for those differences.”

#### DEFINITIONS

Pub. L. 105-219, §3, Aug. 7, 1998, 112 Stat. 914, provided that: “As used in this Act [see Short Title of 1998 Amendment note set out under section 1751 of this title]—

“(1) the term ‘Administration’ means the National Credit Union Administration;

“(2) the term ‘Board’ means the National Credit Union Administration Board;

“(3) the term ‘Federal banking agencies’ has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813];

“(4) the terms ‘insured credit union’ and ‘State-chartered insured credit union’ have the same meanings as in section 101 of the Federal Credit Union Act [12 U.S.C. 1752]; and

“(5) the term ‘Secretary’ means the Secretary of the Treasury.”

### § 1790e. Temporary Corporate Credit Union Stabilization Fund

#### (a) Establishment of Stabilization Fund

There is hereby created in the Treasury of the United States a fund to be known as the “Temporary Corporate Credit Union Stabilization Fund.” The Board will administer the Stabilization Fund as prescribed by section 1789 of this title.

#### (b) Expenditures from Stabilization Fund

Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments for the purposes described in section 1783(a) of this title, subject to the following additional limitations:

(1) All payments other than administrative payments shall be connected to the conservatorship, liquidation, or threatened conservatorship or liquidation, of a corporate credit union.

(2) Prior to authorizing each payment the Board shall—

(A) certify that, absent the existence of the Stabilization Fund, the Board would have made the identical payment out of the National Credit Union Share Insurance Fund (Insurance Fund); and

(B) report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

#### (c) Authority to borrow

##### (1) In general

The Stabilization Fund is authorized to borrow from the Secretary of the Treasury from time-to-time as deemed necessary by the Board. The maximum outstanding amount of all borrowings from the Treasury by the Sta-

bilization Fund and the National Credit Union Share Insurance Fund, combined, is limited to the amount provided for in section 1783(d)(1) of this title, including any authorized increases in that amount.

**(2) Repayment of advances**

**(A) In general**

The advances made under this section shall be repaid by the Stabilization Fund, and interest on such advance shall be paid, to the General fund of the Treasury.

**(B) Variable rate of interest**

The Secretary of the Treasury shall make the first rate determination at the time of the first advance under this section and shall reset the rate again for all advances on each anniversary of the first advance. The interest rate shall be equal to the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity equal to 12 months.

**(3) Repayment schedule**

The Stabilization Fund shall repay the advances on a first-in, first-out basis, with interest on the amount repaid, at times and dates determined by the Board at its discretion. All advances shall be repaid not later than the date of the seventh anniversary of the first advance to the Stabilization Fund, unless the Board extends this final repayment date. The Board shall obtain the concurrence of the Secretary of the Treasury on any proposed extension, including the terms and conditions of the extended repayment and any additional advances.

**(d) Assessment authority**

**(1) Assessments relating to expenditures under subsection (b)**

In order to make expenditures, as described in subsection (b), the Board may assess a special premium with respect to each insured credit union in an aggregate amount that is reasonably calculated to make any pending or future expenditure described in subsection (b), which premium shall be due and payable not later than 60 days after the date of the assessment. In setting the amount of any assessment under this subsection, the Board shall take into consideration any potential impact on credit union earnings that such an assessment may have.

**(2) Special premiums relating to repayments under subsection (c)(3)**

Not later than 90 days before the scheduled date of each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and shall determine whether the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund is not likely to have sufficient funds to make the repayment, the Board shall assess with respect to each insured credit union a special premium, which shall be due and payable not later than 60 days after the date of the assessment, in an aggregate amount calculated to ensure that the Stabilization Fund is able to make the required repayment.

**(3) Computation**

Any assessment or premium charge for an insured credit union under this subsection shall be stated as a percentage of its insured shares, as represented on the previous call report of that insured credit union. The percentage shall be identical for each insured credit union. Any insured credit union that fails to make timely payment of the assessment or special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 1782 of this title.

**(e) Distributions from Insurance Fund**

At the end of any calendar year in which the Stabilization Fund has an outstanding advance from the Treasury, the Insurance Fund is prohibited from making the distribution to insured credit unions described in section 1782(c)(3) of this title. In lieu of the distribution described in that section, the Insurance Fund shall make a distribution to the Stabilization Fund of the maximum amount possible that does not reduce the Insurance Fund's equity ratio below the normal operating level and does not reduce the Insurance Fund's available assets ratio below 1.0 percent.

**(f) Investment of Stabilization Fund assets**

The Board may request the Secretary of the Treasury to invest such portion of the Stabilization Fund as is not, in the Board's judgment, required to meet the current needs of the Stabilization Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Stabilization Fund, as determined by the Board, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

**(g) Reports**

The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1). Because the Fund will use advances from the Treasury to meet corporate stabilization costs with full repayment of borrowings to Treasury at the Board's discretion not due until 7 years from the initial advance, to the extent operating expenses of the Fund exceed income, the financial condition of the Fund may reflect a deficit. With planned and required future repayments, the Board shall resolve all deficits prior to termination of the Fund.

**(h) Closing of Stabilization Fund**

Within 90 days following the seventh anniversary of the initial Stabilization Fund advance, or earlier at the Board's discretion, the Board shall distribute any funds, property, or other assets remaining in the Stabilization Fund to the Insurance Fund and shall close the Stabilization Fund. If the Board extends the final repayment date as permitted under subsection (c)(3), the mandatory date for closing the Stabilization Fund shall be extended by the same number of days.

(June 26, 1934, ch. 750, title II, §217, as added Pub. L. 111-22, div. A, title II, §204(f)(1), May 20, 2009, 123 Stat. 1651; amended Pub. L. 111-382, §1, Jan. 4, 2011, 124 Stat. 4134.)

#### AMENDMENTS

2011—Subsec. (c)(3). Pub. L. 111-382, §1(a), inserted “and any additional advances” before period at end.

Subsec. (d). Pub. L. 111-382, §1(b), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows:

“At least 90 days prior to each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each federally insured credit union a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each credit union shall be stated as a percentage of its insured shares as represented on the credit union’s previous call report. The percentage shall be identical for each credit union. Any credit union that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 1782 of this title.”

### SUBCHAPTER III—CENTRAL LIQUIDITY FACILITY

#### § 1795. Congressional findings

The Congress finds that the establishment of a National Credit Union Central Liquidity Facility is needed to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

(June 26, 1934, ch. 750, title III, formerly subch. III, §301, as added Pub. L. 95-630, title XVIII, §1802, Nov. 10, 1978, 92 Stat. 3719; amended Pub. L. 96-221, title III, §309(b)(1), Mar. 31, 1980, 94 Stat. 149.)

#### CODIFICATION

Section 309(b)(1) of Pub. L. 96-221 redesignated subch. III as title III of act June 26, 1934, ch. 750, cited as a credit to this section.

#### EFFECTIVE DATE

Pub. L. 95-630, title XVIII, §1806, Nov. 10, 1978, 92 Stat. 3724, provided that: “This title [enacting this subchapter and amending section 1757 of this title, section 709 of Title 18, Crimes and Criminal Procedure, and section 856 of former Title 31, Money and Finance] shall take effect on October 1, 1979.”

#### SHORT TITLE

For short title of title XVIII of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3719, as the “National Credit Union Central Liquidity Facility Act”, see section 1801 of Pub. L. 95-630, set out as a Short Title of 1978 Amendment note under section 1751 of this title.

#### § 1795a. Definitions

As used in this subchapter, the term—

(1) “liquidity needs” means the needs of credit unions primarily serving natural persons for—

(A) short-term adjustment credit available to assist in meeting temporary requirements

for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

(B) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

(C) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional or local difficulties.<sup>1</sup>

(2) “Central Liquidity Facility” or “Facility” means the National Credit Union Central Liquidity Facility;

(3) “paid-in and unimpaired capital and surplus” means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserves shall not be considered as part of surplus,<sup>2</sup> and

(4) “member” means a Regular or an Agent member of the Facility.

(June 26, 1934, ch. 750, title III, formerly subch. III, §302, as added Pub. L. 95-630, title XVIII, §1802, Nov. 10, 1978, 92 Stat. 3719; amended Pub. L. 96-221, title III, §309(b)(1), (2), Mar. 31, 1980, 94 Stat. 149.)

#### CODIFICATION

Section 309(b)(1) of Pub. L. 96-221 redesignated subch. III as title III of act June 26, 1934, ch. 750, cited as a credit to this section.

#### AMENDMENTS

1980—Pub. L. 96-221, §309(b)(2), substituted “title” for “subchapter”, which for purposes of codification has been editorially translated as “subchapter”, thereby requiring no further change in text.

#### EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 1806 of Pub. L. 95-630, set out as a note under section 1795 of this title.

#### § 1795b. National Credit Union Administration Central Liquidity Facility; establishment; management; jurisdiction

There is created the National Credit Union Administration Central Liquidity Facility. The Central Liquidity Facility, an instrumentality of the United States, shall exist within the National Credit Union Administration and be managed by the Board. The United States district court shall have original jurisdiction over any case to which the Board on behalf of the Facility is a party, without regard to the amount in controversy.

(June 26, 1934, ch. 750, title III, formerly subch. III, §303, as added and amended Pub. L. 95-630,

<sup>1</sup> So in original. The period probably should be a semicolon.

<sup>2</sup> So in original. The comma probably should be a semicolon.