Board by Board members, the Executive Staff (which includes all Office Directors and President of the Central Liquidity Facility), and Regional Directors.

[61 FR 55208, Oct. 25, 1996, as amended at 62 FR 64267, Dec. 5, 1997; 63 FR 5859, Feb. 5, 1998]

Subpart B—Promulgation of NCUA Rules and Regulations

§791.7 Scope.

The rules contained in this subpart B pertain to the promulgation of NCUA rules and regulations.

§791.8 Promulgation of NCUA rules and regulations.

(a) NCUA's procedures for developing regulations are governed by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and NCUA's policies for the promulgation of rules and regulations as set forth in its Interpretive Ruling and Policy Statement 87–2.

(b) *Proposed rulemaking*. Notices of proposed rulemaking are published in the FEDERAL REGISTER except as specified in paragraph (d) of this section or as otherwise provided by law. A notice of proposed rulemaking may also be identified as a ''request for comments'' or as a ''proposed rule.'' The notice will include:

(1) A statement of the nature of the rulemaking proceedings;

(2) Reference to the authority under which the rule is proposed;

(3) Either the terms or substance of the proposed rule or a description of the subjects and issues involved; and

(4) A statement of the effect of the proposed rule on state-chartered federally-insured credit unions.

(c) *Public participation*. After publication of notice of proposed rulemaking, interested persons will be afforded the opportunity to participate in the making of the rule through the submission of written data, views, or arguments, delivered within the time prescribed in the notice of proposed rulemaking, to the Secretary, NCUA Board, 1775 Duke Street, Alexandria, VA 22314–3428. Interested persons may also petition the Board for the issuance, amendment, or repeal of any rule by mailing such petition to the Secretary of the Board at the address given in this section.

(d) *Exceptions to notice*. The following are not subject to the notice requirement contained in paragraph (b) of this section:

(1) Matters relating to agency management or personnel or to public property, loans, grants, benefits, or contracts;

(2) When persons subject to the proposed rule are named and either personally served or otherwise have actual notice thereof in accordance with law;

(3) Interpretive rules, general statements of policy, or rules of agency organization, procedure or practice, unless notice or hearing is required by statute; and

(4) If the Board, for good cause, finds (and incorporates the finding and a brief statement therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, unless notice or hearing is required by statute.

(e) *Effective dates*. No substantive rule issued by NCUA shall be effective less than 30 days after its publication in the FEDERAL REGISTER, except that this requirement may not apply to:

(1) Rules which grant or recognize an exemption or relieve a restriction;

(2) Interpretive rules and statements of policy; or

(3) Any substantive rule which the Board makes effective at an earlier date upon good cause found and published with such rule.

[53 FR 29647, Aug. 8, 1988, as amended at 59 FR 36041, July 15, 1994]

Subpart C—Public Observation of NCUA Board Meetings Under the Sunshine Act

§791.9 Scope.

This subpart contains regulations implementing subsections (b) through (f) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b). The primary purpose of these regulations is to provide the public with the fullest access authorized by law to the deliberations

and decisions of the Board, while protecting the rights of individuals and preserving the ability of the agency to carry out its responsibilities.

§ 791.10 Definitions.

For the purpose of this subpart:

(a) *Agency* means the National Credit Union Administration;

(b) *Board* means the National Credit Union Administration Board, whose members were appointed by the President with the advice and consent of the Senate;

(c) *Subdivision of the Board* means a group composed of two Board members authorized by the Board to act on behalf of the agency;

(d) *Meeting* means any deliberations by two or more members of the Board or any subdivision of the Board that determine or result in the joint conduct or disposition of official agency business with the exception of: (1) Deliberations to determine whether a meeting or a portion thereof will be open or closed to public observation and whether information regarding closed meetings will be withheld from public disclosure; (2) deliberations to determine whether or when to schedule a meeting; and (3) infrequent dispositions of official agency business by sequential circulation of written recommendations to individual Board members (''notation voting procedure''), provided the votes of each Board member and the action taken are recorded for each matter and are publicly available, unless exempted from disclosure pursuant to 5 U.S.C. 552 (the Freedom of Information Act);

(e) *Public observation* means that a member or group of the public may listen to and observe any open meeting and may record in an unobtrusive manner any portion of that meeting by use of a camera or any other electronic device, but shall not participate in any meeting unless authorized by the Board;

(f) *Public announcement* or *publicly announce* means making reasonable efforts under the particular circumstances to fully inform the public, especially those individuals who have expressed interest in the subject matters to be discussed or the decisions of the agency;

(g) *Sunshine Act* means the open meeting provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b.)

§ 791.11 Open meetings.

Except as provided in § 791.12(a), any portion of any meeting of the Board shall be open to public observation. The Board, and any subdivision of the Board, shall jointly conduct official agency business only in accordance with this subpart.

§ 791.12 Exemptions.

(a) Under the procedures specified in § 791.14, the Board may close a meeting or any portion of a meeting from public observation or may withhold information pertaining to such meetings provided the Board has properly determined that the public interest does not require otherwise and that the meeting (or any portion thereof) or the disclosure of meeting information is likely to:

(1) Disclose matters that are:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and

(ii) In fact properly classified pursuant to such Executive Order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5 of the United States Code, the Freedom of Information Act), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;