

## National Credit Union Administration

## § 701.6

for sale any information obtained from the credit union; and that the members signing the petition have not within five years preceding the signature date sold or offered for sale any information acquired from the credit union or aided or abetted any person in procuring any information from the credit union for purposes of sale. The petition must name one member, and one alternate member, who will represent the petitioners on issues such as inspection procedures, costs, and potential disputes. At least one percent of the credit union's members, with a minimum of 20 members and a maximum of 500 members, must sign the petition. Each member who signs the petition must have been a member of the credit union for at least 180 days at the time the petitioners submit the petition to the credit union.

(c) *Inspection procedures.* (1) A Federal credit union must respond to petitioners within 14 days of receiving a petition. In its response, a credit union must inform petitioners either that it will provide inspection of the requested material and, if so, when, or, if a credit union is going to withhold all or part of the requested material, it must inform petitioners what part of the requested material it intends to withhold and the reasons for withholding the requested material. As soon as possible after receiving a petition, a credit union must schedule inspection and copying of nonconfidential requested material it determines petitioners may inspect and copy.

(2) Inspection may be made in person or by agent or attorney and at any reasonable time or times. The credit union may, at its option, skip inspection and deliver copies of requested documents directly to the petitioners. Member inspection rights under this section are in addition to any other member inspection rights afforded by the credit union's charter or bylaws or other Federal law or Federal regulation.

(3) If the credit union denies inspection because the petitioners have failed to obtain the minimum number of valid signatures, the credit union must inform the petitioners which signatures were not valid and why.

(d) *Confidential books, records, and minutes.* Members do not have the right

to inspect any portion of the books, records, or minutes of a Federal credit union if:

(1) Federal law or regulation prohibits disclosure of that portion;

(2) The publication of that portion could cause the credit union predictable and substantial financial harm;

(3) That portion contains nonpublic personal information as defined in § 716.3 of this part; or

(4) That portion contains information about credit union employees or officials the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(e) *Costs.* A Federal credit union may charge petitioners the direct and reasonable costs associated with search and duplication. The credit union may not charge for other costs, including indirect costs or attorney's fees.

(f) *Dispute resolution.* (1) In the event of a dispute between a federal credit union and its members concerning a petition for inspection or the associated costs, either party may submit the dispute to the regional director. The regional director, after obtaining the views of both parties, will direct the credit union either to withhold the disputed materials or to make them available for member inspection and copying. The regional director may place conditions upon release. The decision of the regional director is a final agency decision and is not appealable to the Board.

(2) The regional director has the discretion to refer any dispute to the credit union's supervisory committee for review and resolution. If petitioners are not satisfied with the supervisory committee's response, they may resubmit the dispute to the regional director.

[72 FR 56253, Oct. 3, 2007]

### §§ 701.4-701.5 [Reserved]

### § 701.6 Fees paid by Federal credit unions.

(a) *Basis for assessment.* Each calendar year or as otherwise directed by the Board, each Federal credit union shall

## §701.6

## 12 CFR Ch. VII (1-1-08 Edition)

pay to the Administration for the current National Credit Union Administration fiscal year (January 1 to December 31) an operating fee in accordance with a schedule as fixed from time to time by the National Credit Union Administration Board based on the total assets of each Federal credit union as of December 31 of the preceding year or as otherwise determined pursuant to paragraph (b) of this section.

(b) *Coverage.* The operating fee shall be paid by each Federal credit union engaged in operations as of January 1 of each calendar year, except as otherwise provided by this paragraph.

(1) *New charters.* A newly chartered Federal credit union will not pay an operating fee until the year following the first full calendar year after the date chartered.

(2) *Conversions.* A state chartered credit union that converts to Federal charter will pay an operating fee in the year following the conversion. Federal credit unions converting to state charter will not receive a refund of the operating fee paid to the Administration in the year in which the conversion takes place.

(3) *Mergers.* A continuing Federal credit union that has merged with another credit union will pay an operating fee in the following year based on the combined total assets of the merged credit union and the continuing Federal credit union as of December 31 of the year in which the merger took place. For purposes of this requirement, a purchase and assumption transaction wherein the continuing Federal credit union purchases all or essentially all of the assets of another credit union shall be deemed a merger. Federal credit unions merging with other Federal or state credit unions will not receive a refund of the operating fee paid to the Administration in the year in which the merger took place.

(4) *Liquidations.* A Federal credit union placed in liquidation will not pay any operating fee after the date of liquidation.

(c) *Notification.* Each Federal credit union shall be notified at least 30 days in advance of the schedule of fees to be paid. A Federal credit union may sub-

mit written comments to the Board for consideration regarding the existing fee schedule. Any subsequent revision to the schedule shall be provided to each Federal credit union at least 15 days before payment is due.

(d) *Assessment of Administrative Fee and Interest for Delinquent Payment.* Each Federal credit union shall pay to the Administration an administrative fee, the costs of collection, and interest on any delinquent payment of its operating fee. A payment will be considered delinquent if it is postmarked later than the date stated in the notice to the credit union provided under §701.6(c). The National Credit Union Administration may waive or abate charges or collection of interest if circumstances warrant.

(1) The administrative fee for a delinquent payment shall be an amount fixed from time to time by the National Credit Union Administration Board and based upon the administrative costs of such delinquent payments to the Administration in the preceding year.

(2) The costs of collection shall be the actual hours expended by Administration personnel multiplied by the average hourly salary and benefits costs of such personnel as determined by the National Credit Union Administration Board.

(3) The interest rate charged on any delinquent payment shall be the U.S. Department of the Treasury Tax and Loan Rate in effect on the date when the payment is due as provided in 31 U.S.C. 3717.

(4) If a credit union makes a combined payment of its operating fee and its share insurance deposit as provided in §741.4 of this chapter and such payment is delinquent, only one administrative fee will be charged and interest will be charged on the total combined payment.

[44 FR 27380, May 10, 1979, as amended at 50 FR 20745, May 20, 1985; 55 FR 1799, Jan. 19, 1990; 59 FR 33421, June 29, 1994; 60 FR 58503, Nov. 28, 1995]