

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce, Credit Union Division

RULE CITATION: All Rules

**DEADLINE FOR RECEIPT: Thursday, February 11, 2016**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*Did you receive any requests for a public hearing regarding these Rules?*

*Please be sure to provide introductory statements at the top of all Rules in accordance with 26 NCAC 02C .0404. Examples of this can be found at <http://www.ncoah.com/rules/examples.html>.*

*Please be sure that all rules are formatted in accordance with 26 NCAC 02C .0108 including tabs, fonts, etc.*

*Please add amended effective dates to all Rules in accordance with 26 NCAC 02C .0108(f).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber Cronk May  
Commission Counsel  
Date submitted to agency: January 28, 2015

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce, Credit Union Division

RULE CITATION: 04 NCAC 06C .0311

**DEADLINE FOR RECEIPT: Thursday, February 11, 2016**

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*Please consider reworking paragraph (a). A suggested rewrite would be "The Board of Directors shall comply with G.S. 54-109.44, and shall maintain any bond coverage required by the Rules of this Chapter and Chapter 54 of the North Carolina General Statutes." Also, under what circumstances will the Administrator require other bond coverage? I understand that 54-109.44(2) gives the Administrator the authority to do so; however, it does not set forth any parameters. Is there another rule or statute that provides some additional information regarding this requirement?*

*In (b), line 13, please either take out the comma before ([www.nccud.org](http://www.nccud.org)) or remove the parenthesis.*

*On what shall the administrator base its decision regarding other bonds? Is there a cross-reference available?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber Cronk May  
Commission Counsel  
Date submitted to agency: January 28, 2015

1 04 NCAC 06C .0311 Surety Bond and Insurance Coverage — Proposing an amendment to increase  
2 deductible limits.  
3

4 **04 NCAC 06C .0311 SURETY BOND AND INSURANCE COVERAGE**  
5

6 (a) It shall be the duty of the Board of Directors to purchase a blanket fidelity bond including such other bond  
7 coverage as required by the statutes or as may be required by the Administrator as set forth in G.S. 54-109.44(2).

8 (b) Every State-chartered credit union shall maintain the minimum bond and insurance coverage as required by  
9 ~~statute~~ G.S. 54-109.11(5). No form of surety bond shall be used except as is approved by the Administrator as set  
10 forth in G.S. 54-109.11(5). The approved bond forms are Credit Union Blanket Bond 500 Bond Series, plus  
11 faithful performance rider, Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of  
12 America, or an equivalent approved Bond Form including a faithful performance rider on a current listing on the  
13 Credit Union Division website, (www.nccud.org). ~~NCUA Optional Form 581 or its equivalent.~~ These bond forms  
14 shall be considered the minimum coverages required for the purpose of this section. The approved bond forms in  
15 this Paragraph provide faithful performance coverage for all employees and officials. Fidelity bonds ~~must~~ shall  
16 provide coverage for the fraud and dishonesty of all employees, directors, officials, and supervisory and credit  
17 committee members. Other forms, or changes in the amount of bond coverage, ~~must~~ shall be approved by the  
18 Administrator.

19 (c) Maximum deductible limits may be applied to the required coverage contained in 500 Bond Series, and  
20 Standard Form No. 23, as specified in this Paragraph:  
21

22 Assets	Maximum Deductible
23 0 to \$100,000	0
24 \$100,001 to \$250,000	\$500
25 \$250,001 to \$500,000	750
26 \$500,001 to \$750,000	1,000
27 \$750,001 to \$1,000,000	1,500
28 \$1,000,001 to \$2,000,000	2,000
29 \$2,000,001 to \$3,000,000	3,000
30 \$3,000,001 to \$5,000,000	4,000
31 \$5,000,001 to \$50,000,000	5,000
32 \$50,000,001 to \$100,000,000	7,500
33 Over \$100,000,001	10,000
34 <u>\$0 to 100,000</u>	<u>0</u>
35 <u>\$100,001 to \$250,000</u>	<u>\$1,000</u>
36 <u>\$250,000 to \$1,000,000</u>	<u>2,000</u>
37 <u>Over \$1,000,000</u>	<u>2,000 plus 1/1000 of total assets up to a maximum of</u>
38 <u>\$200,000</u>	

1 Deductibles in excess of those shown ~~must~~ shall be approved by the Administrator. ~~In no event shall any~~  
2 ~~deductible be applied to the fidelity coverage or the faithful performance provision of the bond unless approved by~~  
3 ~~the Administrator.~~

4 (d) In considering a request to deviate from the bond coverage and deductible amounts set forth in this Rule, the  
5 Administrator shall consider the following factors about the credit unions:

- 6 (1) Financial strength;
- 7 (2) Net worth;
- 8 (3) Return on assets;
- 9 (4) Quality of assets; and
- 10 (5) Capital, Assets, Management, Earnings, and Liquidity (CAMEL) rating, used by the Division and NCUA  
11 to evaluate the soundness of credit unions on a uniform basis.

12

13 *History Note: Authority G.S. 54-109.11 (5); 54-109.12; 54-109.44 (2);*

14 *Eff. April 1, 1981;*

15 *Amended Eff. July 1, 2013; February 1, 1992; April 1, 1985.*

16 *Amended Eff. March 1, 2016*

17

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce, Credit Union Division

RULE CITATION: 04 NCAC 06C .0410

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In reviewing these rules, the staff determined that the following technical changes need to be made:

*Please reorganize this rule in order to provide additional clarity.*

*The definition contained in (a)(6) seems to be misplaced. Should information concerning immediate family members be pulled out and made into a separate paragraph?*

*The last sentence in (a) "However, salary (except commissions) for employees is not a commission..." also seems misplaced. Should this information instead be captured with the information contained in (b)?*

*In (b), please add some additional language regarding "incentives"*

*In (b)(1), what do you mean by "for the purposes of this section of the Rule"? Did you mean this Paragraph of the Rule or this Rule?*

*Please format this Rule in accordance with 26 NCAC 02C .0206.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber Cronk May  
Commission Counsel  
Date submitted to agency: January 28, 2015

1 04 NCAC 06C .0410 Prohibited Fees (New Rule) —Moves the prohibited fees section from .0407 to provide  
2 clarity with regard to applicability

3 **Proposed Text:**

4 **04 NCAC 06C .0410 Prohibited Fees**

5 (a) A North Carolina credit union shall not make any loan or extend any line of credit if, either directly or  
6 indirectly, any commission, fee, or other compensation is to be received by the Credit Union's directors,  
7 committee members, senior management employees, loan officers, or any immediate family members of  
8 such individuals, in connection with underwriting, insuring, servicing, or collecting the loan or line of  
9 credit. However, salary (except commissions) for employees is not a commission, fee, or other  
10 compensation for the purposes of this Rule. For the purposes of this Rule, "senior management  
11 employees" means the following:

12 (1)Credit Union's chief executive officer, typically this individual holds the title of President,

13 (2)Treasurer/Manager,

14 (3)Vice President,

15 (4) Assistant Vice President or Assistant Treasurer/Manager,

16 (5)Chief Financial Officer, Comptroller, and,

17 (6) "Immediate family member" means a spouse or other family member living in the same  
18 household.

19 (b) Incentives.

20 (A) For the purposes of this section of the Rule: Compensation includes non-monetary items, except  
21 those of nominal value.

22 (B) This section of the Rule does not prohibit:

23 (1) Payment of an incentive or bonus to an employee based on the credit union's overall financial  
24 performance;

25 (12) Payment of an incentive or bonus to an employee other than a senior management employee in  
26 connection with a loan or loans made by the credit union, provided that the board of directors of the  
27 credit union establishes written policies and internal controls in connection with such incentive or bonus  
28 and monitors compliance with such policies and controls at least annually.

29

30 History Note: Authority G. S. 54-109.12; 54-109.21(25); 54-109.22

31 Eff. March 1, 2016

32

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce, Credit Union Division

RULE CITATION: 04 NCAC 06C .1001

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In reviewing these rules, the staff determined that the following technical changes need to be made:

*Please format this Rule in accordance with 26 NCAC 02C .0206(b).*

*In (a), please consider deleting "in accordance with this section" as the rules contained in this section are captured in "applicable state and federal laws, rules, and regulations." Please see lines 4 and 5 in 26 NCAC 06C .1001 for alternate language.*

*The language of "the credit union shall permanently maintain the original records of the charter, bylaws, and any amendments to those documents" contained in (a) appears to be misplaced. It seems as though this language would be better in (b).*

*In (b), what do you mean by "permanently"? Do you really mean forever? Is there a records-retention schedule available to cross-reference?*

*Why has the language in (b)(4) been pulled out and moved to (a)? It seems to make more sense in (b) given that this sub-paragraph is indicating what must be retained.*

*(b)(10) indicates that credit unions are required to maintain a list of all records destroyed? Does this include nonpermanent records destroyed, the hard copies of permanent records that were saved as electronic or digital forms, or both?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber Cronk May  
Commission Counsel  
Date submitted to agency: January 28, 2015

1 04 NCAC 06C .1001 Permanent Records—Updates rule to create consistency with reasonable  
2 business practices

3 **SECTION .1000 - RETENTION OF RECORDS**

4 **NCAC 06C .1001 PERMANENT RECORD**

5 (A) Each credit union shall retain its records in a manner consistent with reasonable business  
6 practices and in accordance with this section and applicable state and federal laws, rules, and  
7 regulations. The credit union shall permanently maintain the original records of the charter,  
8 bylaws, and any amendments to those documents.

9 (B) The following original records shall be retained permanently in their original form or in any  
10 electronic or digital form which permits their retrieval and replication:

- 11 (1) the minutes of meetings of members and of the board of directors;
- 12 (2) audit reports;
- 13 (3) copies of the examination reports of the Credit Union Division;
- 14 (4) ~~charter, bylaws, and amendments;~~
- 15 (4 5) rulings and opinions from the Credit Union Division;
- 16 (5) signature cards;
- 17 (6) journal and cash record;
- 18 (7) general ledger;
- 19 (8) loan and shares subsidiary ledgers;
- 20 (9) bank reconciliations; and
- 21 (10) a list of all records destroyed.

22  
23 *History Note: Authority G.S. 54-109.12; 54-109.17;*  
24 *Eff. February 1, 1976;*  
25 *Readopted Eff. April 4, 1978.*  
26 *Amendment Eff. March 1, 2016*  
27  
28

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce, Credit Union Division

RULE CITATION: 04 NCAC 06C .1002

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In reviewing these rules, the staff determined that the following technical changes need to be made:

*Did you intend on lines (4) and (5) to be paragraph (a) and lines (6) and (7) to be (b)? Please format this Rule accordingly.*

*What is the difference between permanent and nonpermanent records? Are non-permanent records those that are not contained in 04 NCAC 06C .1001? Please clarify. Also, how long must "nonpermanent records" be retained. Given that you have deleted all time requirements previously contained in this rule, is there any requirement that they be kept at all?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber Cronk May  
Commission Counsel  
Date submitted to agency: January 28, 2015

1 04 NCAC 06C .1002 Nonpermanent Records—Updates rule to create consistency with reasonable business  
2 practices

3 **04 NCAC 06C .1002 NONPERMANENT RECORDS**

4 Each Credit Union shall retain its records in a manner consistent with reasonable business practices and in  
5 accordance with this section and applicable state and federal laws, rules, and regulations.

6 ~~The following credit union records~~ Nonpermanent records will shall be kept in either the original, ~~or on microfilm or~~  
7 ~~microfiche, or any electronic or digital form, which permits their retrieval and replication.~~ for the period indicated:

8		
9	Ledgers: general	15 years
10	Journal: Cash (Journal of Original Entry)	15 years
11	Subsidiary Ledgers (Shares, Loans & Deposits)	10 years
12	Registers: (Check, Money Order, & Collateral)	10 years
13	Record of Receipts: (Deposit Tickets, Collection Sheets,	
14	Payroll Deduction Records)	10 years
15	Withdrawal Slips: (Cash Payments, Check Payments)	10 years
16	Cancelled Checks, Money Orders, Vouchers	10 years
17	Check Stubs	Optional
18	Bank Statements	10 years
19	Bank Deposit Slips	10 years
20	Expense Vouchers	5 years
21	Invoices for Sale or Purchase of Securities	10 years
22	Reports: Statistical Reports to Credit Union Division	10 years
23	Minutes of the Credit Committee Meetings	10 years
24	Loan Applications	2 years after loan is paid
25	-	
26	Charged Off Loans:	
27	Note and Application	10 years
28	Ledger Sheet	10 years
29	-	
30	Bond Claims	10 years
31	Tax Records	10 years
32	Court Orders (after case closed)	10 years
33	Personnel Records	10 years
34	Registered Mail Records	10 years

1      ~~Delinquent Loan Schedules~~      ~~4~~ years

2

3      ~~EDP Records:~~

4      ~~Members' Quarterly Statements~~      ~~10~~ years

5      ~~Transaction Records~~      ~~4~~ years

6      ~~Month EDP Trial Balance~~      ~~2~~ years

7      -

8      *History Note: Authority G.S. 54-109.12; 54-109.17;*

9                      *Eff. February 1, 1976;*

10                     *Readopted Eff. April 4, 1978. Amendment Eff. March 1, 2016*

11

12

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce, Credit Union Division

RULE CITATION: 04 NCAC 06C .1204

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In reviewing these rules, the staff determined that the following technical changes need to be made:

*For my understanding of this Rule, when would a credit union invest in federal funds? Are there any other requirements that a credit union must comply with in order to do so?*

*The cited authority of G.S. 54-109.21(8) provides that a credit union may "borrow any source in accordance with policy established by the Board of Directors." This Rule indicates that "a credit union may invest in federal funds..." Is 54-109.21(8) a correct citation? Is the use of the word "invest" correct?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber Cronk May  
Commission Counsel  
Date submitted to agency: January 28, 2015

1 04 NCAC 06C .1204 Federal Funds—Updates rule to include any federally insured financial institution.

2 **04 NCAC 06C .1204 FEDERAL FUNDS**

3

4 A credit union may invest in federal funds through ~~a bank located in North Carolina and any bank insured by F.D.I.C.~~  
5 any federally-insured financial institution.

6

7 *History Note: Authority G.S. 54-109.21 (8); 54-109.21 (25);*

8 *Eff. May 15, 1981;*

9 *Amended Eff. October 1, 1983.*

10 *Amended Eff. March 1, 2016*

11