

G.S. 150B-21.3A Report for 04 NCAC 06, CREDIT UNION DIVISION									
Agency - Department of Commerce - Credit Union Division									
Comment Period - Filled in by Agency									
Date Submitted to APO - Filled in by RRC staff									
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
SUBCHAPTER 06A - ORGANIZATION	SECTION .0100 - GENERAL INFORMATION	04 NCAC 06A .0101	NAME AND ADDRESS	Amended Eff. March 1, 2013	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SUBCHAPTER 6B - RULE-MAKING: DECLARATORY RULINGS AND CONTESTED CASES	SECTION .0300 - RULE-MAKING HEARINGS	04 NCAC 06B .0301	PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES	Amended Eff. March 1, 2013	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0302	NOTICE OF RULE-MAKING HEARINGS	Amended Eff. July 1, 2013	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0303	RULE-MAKING HEARINGS: GENERAL INFORMATION	Amended Eff. July 1, 2013	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .0400 - DECLARATORY RULINGS	04 NCAC 06B .0401	PETITION FOR DECLARATORY RULING	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0402	RESPONSE OF ADMINISTRATOR TO PETITION	Eff. June 1, 1990	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
	SECTION .0500 - ADMINISTRATIVE HEARINGS	04 NCAC 06B .0501	RIGHT TO HEARING	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0502	INFORMAL SETTLEMENT	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0503	REQUEST FOR HEARING	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0504	NOTICE OF HEARING	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0505	INTERVENTION IN AN ADMINISTRATIVE HEARING	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0506	DEPOSITIONS	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0507	SUBPOENAS	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0508	SERVICE OF SUBPOENAS	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06B .0509	OBJECTION TO A SUBPOENA	Eff. June 1, 1990	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SUBCHAPTER 06C - CREDIT UNIONS	SECTION .0100 - GENERAL INFORMATION	04 NCAC 06C .0101	DEFINITIONS	Amended Eff. July 1, 2013	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
	SECTION .0200 - ORGANIZATION OF CREDIT UNIONS	04 NCAC 06C .0201	INCORPORATION OF STATE CHARTERED CREDIT UNIONS	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0202	MINIMUM POTENTIAL MEMBERSHIP GUIDELINES	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0203	FIELDS OF MEMBERSHIP	Amended Eff. March 1, 2015	Necessary without substantive public interest	No		No	Necessary with substantive public interest
		04 NCAC 06C .0204	BYLAWS AND ARTICLES OF INCORPORATION	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		No	Necessary without substantive public interest

G.S. 150B-21.3A Report for 04 NCAC 06, CREDIT UNION DIVISION									
Agency - Department of Commerce - Credit Union Division									
Comment Period - Filled in by Agency									
Date Submitted to APO - Filled in by RRC staff									
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
		04 NCAC 06C .0205	LOANS TO CREDIT UNION OFFICIALS	Amended Eff. March 1, 2015	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0206	MERGER OF CREDIT UNIONS	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0207	CONVERSION OF CHARTER FROM NORTH CAROLINA CHARTER	Amended Eff. April 1, 1981	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0208	CONVERSION OF CHARTER TO NORTH CAROLINA CHARTER	Amended Eff. April 1, 1981	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0209	OUT OF STATE OFFICE FACILITIES	Eff. April 4, 1978	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
	SECTION .0300 - BASIC INTERNAL CONTROLS: ACCOUNTING PROCEDURES AND OPERATION STANDARDS FOR STATE-CHARTERED CREDIT UNIONS	04 NCAC 06C .0301	GENERAL PROVISIONS	Amended Eff. March 1, 2015	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0302	PROCEDURES	Amended Eff. March 1, 2015	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0304	MANAGEMENT DUTIES	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0305	INDEPENDENT AUDITS	Amended Eff. October 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0306	DISPLAY OF FINANCIAL STATEMENTS	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0307	LISTING OF OFFICIALS AND OPERATING HOURS	Amended Eff. July 1, 2013	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0308	BORROWING LIMITATIONS	Readopted Eff. April 4, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0309	OPERATIONAL SYSTEMS	Readopted Eff. April 4, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0310	SHARE DRAFT PROGRAMS	Eff. December 1, 1979	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0311	Fidelity and SURETY BONDS AND INSURANCE COVERAGE	Amended Eff. July 1, 2013 Eff. March 1, 2016	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0312	INSURANCE AND GROUP PURCHASING	Eff. March 1, 1982	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0313	CREDIT UNION SERVICE ORGANIZATION (CUSO)	Eff. October 1, 1983	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
	SECTION .0400 - LOANS	04 NCAC 06C .0401	DELINQUENT LOANS AND LOAN LOSSES	Amended Eff. February 1, 1992	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0402	CHARGE - OFF OF UNCOLLECTIBLE LOANS	Amended Eff. February 1, 1992	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest

G.S. 150B-21.3A Report for 04 NCAC 06, CREDIT UNION DIVISION									
Agency - Department of Commerce - Credit Union Division									
Comment Period - Filled in by Agency									
Date Submitted to APO - Filled in by RRC staff									
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
		04 NCAC 06C .0403	REAL ESTATE LOANS	Amended Eff. February 1, 1992	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0404	LINE OF CREDIT LOANS	Amended Eff. January 1, 1992	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0407	BUSINESS LOANS	Amended Eff. August 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	12 C.F.R. § 741.203 and 12 C.F.R. § 723	Yes	Necessary with substantive public interest
		04 NCAC 06C .0408	SALE OF LOANS	Eff. June 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0409	LOAN LIMITATIONS	Eff. August 1, 1998	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0410	Prohibited Fees	Eff. March 1, 2016	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .0500 - IMPAIRMENT AND INSOLVENCY	04 NCAC 06C .0501	IMPAIRMENT	Amended Eff. January 1, 1983	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0502	INSOLVENCY	Readopted Eff. April 4, 1978	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
	SECTION .0600 - DIVIDENDS: DEPOSITS AND INTEREST REBATE	04 NCAC 06C .0601	DIVIDENDS	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0603	INTEREST REBATES	Readopted Eff. April 4, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .0700 - ACCOUNTS	04 NCAC 06C .0706	DORMANT ACCOUNTS	Amended Eff. October 1, 1982	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .0707	STATEMENTS OF ACCOUNTS	Readopted Eff. April 4, 1978	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
	SECTION .0800 - REPORTS TO ADMINISTRATOR	04 NCAC 06C .0801	FINANCIAL STATEMENTS AND OTHER INFORMATION	Amended Eff. July 1, 2013	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0802	ADDITIONAL REPORTS	Amended Eff. December 1, 1979	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .0900 - PENSION PLANS	04 NCAC 06C .0901	CREDIT UNION AS CUSTODIAN	Readopted Eff. April 4, 1978	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .0902	SUCCESSOR CUSTODIAN	Readopted Eff. April 4, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .1000 - RETENTION OF RECORDS	04 NCAC 06C .1001	PERMANENT RECORDS	Readopted Eff. April 4, 1978 Eff. March 1, 2016	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .1002	NONPERMANENT RECORDS	Readopted Eff. April 4, 1978 Eff. March 1, 2016	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
	SECTION .1200 - INVESTMENTS	04 NCAC 06C .1201	INVESTMENT ACTIVITIES	Eff. April 1, 1979	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .1202	PERMISSIBLE TRANSACTIONS	Amended Eff. January 1, 2007	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		04 NCAC 06C .1203	RESTRICTED TRANSACTIONS	Eff. April 1, 1979	Necessary without substantive public interest	No		No	Necessary without substantive public interest

G.S. 150B-21.3A Report for 04 NCAC 06, CREDIT UNION DIVISION									
Agency - Department of Commerce - Credit Union Division									
Comment Period - Filled in by Agency									
Date Submitted to APO - Filled in by RRC staff									
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
		04 NCAC 06C .1204	FEDERAL FUNDS	Amended Eff. October 1, 1983 Eff. March 1, 2016	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .1205	AUTOMATIC LIENS UPON ALL SHARES TO SECURE ALL DEBTS	Eff. December 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .1300 - RESERVES	04 NCAC 06C .1301	LIQUIDITY RESERVES	Amended Eff. February 1, 1992	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .1302	OTHER RESERVES	Eff. December 1, 1979	Necessary without substantive public interest	No		Yes	Necessary with substantive public interest
		04 NCAC 06C .1303	CORPORATE CREDIT UNION RESERVES	Amended Eff. October 1, 1983	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .1400 - SIGNATURE GUARANTEE SERVICES	04 NCAC 06C .1401	SIGNATURE GUARANTEE	Eff. March 1, 1994	Necessary without substantive public interest	No		No	Necessary without substantive public interest



<b>EXAMPLE</b>					
Agency	Rule	Name	Type of Comment	Comment	Agency Response
Copy all columns in this row to the right of this yellow cell and paste in new			Select One		
Environmental Management Commission	15A NCAC 02B .0101	GENERAL PROCEDURES	Public Coment as defined in G.S. 150B-21.3A(a)(5)	<p>From: Doe, Jane Sent: Friday, October 18, 2013 2:37 PM To: Doe, John Subject: RE: public comment</p> <p>Lorem ipsum dolor sit amet, consectetur adipisicing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.</p> <p>Lorem ipsum dolor sit amet, consectetur adipisicing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.</p>	We agree
			Other Statement	Got a call from a guy who said he didn't like this agency.	We're sorry you feel that way.
				<b>Comments Listed on line 7-35 are From Dan Schline of the NC League sent June sent June 13, 2016 to Tony Knox, NCCUD Re: Public Comments</b>	<b>Please See Addendum with Agency Response</b>
Credit Union Division	04 NCAC 06B .0402	RESPONSE OF ADMINISTRATOR TO PETITION	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete .0402(b)(5) because its too broad, correct history note-authority in in G.S.150B-4, not 17 (technical)	we disagree
Credit Union Division	04 NCAC 06C .0101	Definitions	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete .0101 (3)(15)(16)(17); Add definitions for Federal Insurer Immediate Family Member and League (technical)	we disagree with the deletions of words , but will add League
Credit Union Division	04 NCAC 06C .0201	Incorporation of State Chartered Credit Unions	public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete .0201(a) because it duplicates the requirements of the Credit Union statute (technical)	we disagree
Credit Union Division	04 .NCAC 06C .0202	Minimum Potential Membership Guidelines	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete because it is suggestive, not mandatory (technical)	we disagree
Credit Union Division	04 NCAC 06C .0209	Out of State Office Facilities	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Strike the phrase "to seek the advice of attorney"; Add G.S. 54-109.6 and 54-109.7 as additional statutory references (technical)	we disagree with striking the phrase, but will add 54-109.7
Credit Union Division	04 NCAC 06C .0301	General Provisions	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete .0301( c ) since no credit unions continue to use manual records;Delete .0301(d) since the same requirement is located in section 6B.0300 of the Rules (technical)	we disagree, we do have some manual operations and we disagree with your understanding of the use of .0301 (d)
Credit Union Division	04 NCAC 06C .0302	Procedures	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete .0302(29) outdated practice/requirement (substantive)	we disagree that it is outdated

Credit Union Division	04 NCAC 06C .0304	Management Duties	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete since it is suggestive, not mandatory ( Technical)	we disagree
Credit Union Division	04 NCAC 06C .0306	Display of Financial Statements	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Amend to allow posting of financial statement on website to meet requirement (substantive)	we agree to add posting it on to website along with posting
Credit Union Division	04 NCAC 06C .0307	Listing of Officials and Operating Hours	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Amend to allow comparable filings with Federal Insurer to meet requirement (substantive )	we agree to amend
Credit Union Division	04 NCAC 06C .0311	Fidelity and Surety Bonds and Insurance Coverage	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Amendments to .0311(a) ,(c) and (d) suggested to provide consistency with federal requirements (technical)	we disagree, it can be a safety and soundness issue if deductibles are too high
Credit Union Division	04 NCAC 06C .0312	Insurance and Group Purchasing	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete since it duplicates the requirements of the Credit Union Statute (technical)	we disagree
Credit Union Division	04 NCAC 06C .0313	Credit Unions Service Organization	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete .0313(a) and (d) since they duplicate the requirements of the Credit Union Statute (technical)	we disagree
Credit Union Division	.04 NCAC 06C .0401	Delinquent Loans and Loan Losses	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete since inconsistent with other sections of the Rules and with requirements of the Federal Insurer (technical)	we disagree with deleting, but will amend the rule.
Credit Union Division	04 NCAC 06C .0404	Line of Credit Loans	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete since it duplicatres the reserve requirements of the credit union statute (technical)	we disagree
Credit Union Division	04 NCAC 06C .0407	Business Loans	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete Federal Insurer amended rules in 2016 that apply to all federally insured institutions (substantive)	we agree to amend, adopting most of the new federal rule
Credit Union Division	04 NCAC 06C .0409	Loan Limitations	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Amend. 409(a) and delete .409(b) (technical)	we disagree
Credit Union Division	04 NCAC 06C .0501	Impairment	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete, Federal Insurers will take action under its capital rule before a credit union becomes impaired or insolvent. (substantive)	we disagree
Credit Union Division	04 NCAC 06C .0502	Insolvency	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete (substantive)	we disagree
Credit Union Division	04 NCAC 6C .0601	Dividends	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Add GS-54-109.86(a)(3) to statutory authority (technical)	other comment
Credit Union Division	04 NCAC 06C .0707	Statement of Accounts	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete since it is superseded by Federal consumer protection rules (technical)	we disagree, we can amend

Credit Union Division	04 NCAC 06C .0801	Financial Statements And Other Information	Public Coment as defined in G.S. 150B-21.3A(a)(5)	amend by deleting third sentence referencing " fines and penalties" as it repeats the requirements of the Credit Union Statute (technical)	we disagree,
Credit Union Division	04 NCAC 06C .0901	Credit Union as Custodian	Public Coment as defined in G.S. 150B-21.3A(a)(5)	amend by deleting "is authorized to act as a custodian" (technical)	we disagree,
Credit Union Division	04 NCAC 06C .1001	Permanent Records	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete; Federal guide lines provided in Appendix A of NCUA Part 749 provide necessary guidance on record retention matters (substantive )	we disagree, will consider amending, but will not delete guidance is needed with some requirements
Credit Union Division	04 NCAC 06C .1002	Non-permanent records	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete (substantive)	we disagree,
Credit Union Division	04 NCAC 06C .1201	Investment Activities	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete since it duplicates authority given in the Credit Union Statute and the prohibition contained in rule 06C. 1203 (technical)	we disagree,
Credit Union Division	04 NCAC 06C .1204	Federal Funds	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Add GS-54-109.82 to statutory authority (technical)	other comment
Credit Union Division	04 NCAC 06C .1301	Liquidity Reserves	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete-outdated; Federal Insurer has extensive liquidity requirements (substantive)	we disagree
Credit Union Division	04 NCAC 06C .1302	Other Reserves	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Delete .1302 (a) since it duplicates requirements of the Credit Union Statute Delete .1302 (b) since it only references other rules (technical)	we disagree
				<b>The Comments listed on Lines 40 - 50 are from: Randy Chambers, Self-Help CU submitted on June 10 2016 Re: Public Comments</b>	
Credit Union Division	04 NCAC 06C .0302	Procedures	Public Coment as defined in G.S. 150B-21.3A(a)(5)	From: Randy Chambers, Self-Help CU Date: May 3, 2016 Re:Public Comment Subsection (18) states that erasurs and eradications for correction of errors in records are prohibited;corrections must be approved by an authorized person, that shall be approved by the Board of Directors" (emphas added). We believe this is a vestige of when member records were kept in manual ledger books, which we believe only one credit union still uses. We are unsure of whether this sentence requires changes be brought to the board or allows the board to designate an authorized person to approve changes. Either way, we assume that virtually no credit union presents changes to its records to its board of directors for approval nor has the board invest this authority in a specific employee.	we disagree
Credit Union Division	Same	Same	same	Subsection (23) staates that ".Upon meeting as a Board of Directors, the secretary or designated member shall make a matter of recod in the minutes of the meeting all written communications from the Division." Credit Unions routinely correspond with nccud on member complaints and other regulatory issues that do not merit presentation to the board of directors. Member complaints, for example, are generally the responsibility of a Supervisory Committee. We recommend that NCCUD clarify which communications, if any, merit being recorded in the minutes of the board of directors. For example, Self-Help Credit Union always presents any correspondence or reports related to its examinations to our Board of Directors.	same

Credit Union Division	04 NCAC 06C .0307	Regulating Listing of Officials and Operating Hours	Public Coment as defined in G.S. 150B-21.3A(a)(5)	We recommend that NCCUD reduce the administrative burden on credit unions and clarify that credit unions can meet the requirements of this section through their on -line reporting of this information to NCUA, which is accessible to NCCUD. Just as NCCUD uses NCUA's 5300 call reporting system to monitor performance, the separate Annual Personnel, Operations and Data Report is not reasonably necessary to NCCUD, as the same data can be obtained in the credit union's profile that is filed electronically with NCUA. ( substantive )	we agree to amend
Credit Union Division	04 NCAC 06C .0311	Fidelity and Surety Bonds and Insurance Coverage	Public Coment as defined in G.S. 150B-21.3A(a)(5)	We urge NCCUD to recommend to the Rules Review Commission a final determination of "unnecessary" for these rules. 04NCAC 06D .0311( c ) and (d) do not meet all four criteria in G.S. 150B-21.9(a), which sets forth standards for review by the Commission. Specifically, we believe 04 NCAC 06C.0311(c) and (d) are not reasonably necessary to fulfill NCCUD's duties with respect to fidelity and surety bonds and insurance coverage set forth in G.S. 540109.11(5). These rules are not necessary because minimum fidelity and faithful performance requirements are set forth in G.S.54-109.11(5) In addition , as the insurer of all North Carolina Credit Unions, the National Credit Union Share Insurance Fund, administered by NCUA, is the primary beneficiary of bonding and insurance. There is no business, nor safety and soundness purpose to nccud regulating deductibles on fidelity and surety bonds and insurance coverage. In particular, NCCUD, unlike NCUA, limits deductibles on faithful performance and fidelity coverage. Finally, maximum deductible limits that may be applied to the required coverage are contained in Part 713.6 of the NCUA Rules and Regulations. To the extent NCCUD can demonstrate a prudent reason why it should retain authority over deductibles, we recommend retaining the last sentence of 04 NCAC 06C .0311 (c) designating exception authority to the Administrator, and making a determination that the remaining language in that rule is unnecessary. (substantive )	we disagree, it can become a safety and Soundness issue
Credit Union Division	04 NCAC 06C .0401	Delinquent Loans and Loan Losses	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Subsection (a) Monthly schedule of Delinquent Loans. We believe this sub-section should be deleted. This rule provides very specific.formating definitions that we believe credit unions do not use and is not reasonably necessary for NCCUD. As with other rules, we believe this rule is a vestige of an era of very small credit unions using manual record keeping, and is not easily implemented by credit unions that may have hundredsof delinquent borrowers at the end of any single month.	we disagree with deleting, but will amend the rule.
Credit Union Division	04 NCAC 06C .0402	Charge-off of Uncollectable Loans	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Subsection (c ) States that " any loans delinquent 12 months or more, unless there is a high probability of no loss, will be charged off". While we agree this is an appropriate practice for all non-real estate secured loans, it is possible for a real estate borrower that is 12 months past due to be in a court approved chapter 13 bankruptcy plan or otherwise paying the credit union. In such a case there is not a high probability of no loss " The borrow is in a high level of distress, but there is a reasonable probability of minimal loss and they are paying the credit union monthly. We recommend NCCUD amend this section to add the following language "unless the loan is secured by real estate and the borrower is demonstrating a reasonable level of repayment, such as performing under the terms of a court-approved bankruptcy plan."(substantive)	we agree to amend
Credit Union Division	04 NCAC 06C .0407	Member Business Loans	Public Coment as defined in G.S. 150B-21.3A(a)(5)	We urge NCCUD to recommend to the Rules Review Commission a final determination of “unnecessary”	we agree to amend and adopt parts of the new rule
				for this rule. 04 NCAC 06C .0407 does not meet all four criteria in G.S. § 150B-21.9(a), which sets forth standards for review by the Commission. Specifically, we believe 04 NCAC 06C .0407 and is not reasonably necessary to inplement or interpret an enactment of the General Congress or a regulation of a federal agency. The rule creates ambiguity because this rule was pre-empted by Congress for both federally and state-chartered credit unions in 1998 with passage of the Credit Union Membership Access Act. Retention of this rule makes state-chartered credit unions less competitive with FCUs and creates undue confusion over which set of rules to follow for state - chartered credit unions. (substantive)	

Credit Union Division	04 NCAC 06C .1001	Permanent Records	Public Coment as defined in G.S. 150B-21.3A(a)(5)	We urge NCCUD to recommend to the Rules Review Commission a final determination of “unnecessary” for this rule. 04 NCAC 06C .1001 ( c ) does not meet all four criteria in G. S.150B - 21.9( a) which sets forth standards for review by the Commission. Specifically, we believe 04 NCAC 06C .1001( c ) is not reasonably necessary to implement or interpret an nactment of the General Assembly, Congress or a regulation of a federal agency. In addition, this rule creates ambiguity as it conflicts with federal guidelines referenced in the following rule, 04 NCAC 06C.1001 (d). Pursuiant to G.S. 54-109.17(a), a credit union shall maintain all books, records , accounting systems and procedures in with such rules as the Administrator from time to time prescribes . In prescribing such rules, the Administrator shall consider the relative size of a credit union and its reasonbile capability of compliance " The current rule states that " the following " records shall be retained permantly ...( template added)(5)signature cards (6) journal and Cash record;(7) general ledger; (8) loan and share subsidiary ledgers;(9) bank reconcilitions; and (10) a list of all record s destroyed	we disagree, will consider amending, but will not delete guidance is needed with some requirements
				and not describing 04 NCAC 06 C .1001 © as suggested guidelines, NCCUD has created an unduly burdensome mandate for state-charter credit unions, placing them at a disadvantage relative to FCUs. From conversations with NCCUD , we do not believe it was the agency's intent to create this perpetual records retention requirement and therefore urge NCCUD to delete this regulation. (substantive)	
Credit Union Division	04 NCAC 06C .1001	Permanent Records	other comment/question	From Carla Stamper, Greensboro Postal CU: Date April 28, 2016 Question: Do we start now and go forward or do we keep everthing and move forward. Primary discussion around the reconciliations, that they keep in a safe box.	A question in which we directed her to start with the effective date and maintain records moving forward.
Credit Union Division	04 NCAC 06C .1002	Non Permanent Records	other comment/question	From Carla Stamper, Greensboro Postal CU: Date April 28, 2016 Question: Do we start now and go forward or do we keep everthing and move forward. Primary discussion around the reconciliations, that they keep in a safe box.	A question in which we directed her to start with the effective date and maintain records moving forward.
Credit Union Division	04 NCAC 06C .1001	Permanent Records	Public Coment as defined in G.S. 150B-21.3A(a)(5)	From: Randy Chambers, Self-Help CU Date: April 28, 2016 Re:Public Comment Concerned about maintaining records on a permanent basis, and the expense of digitizing all records. Randy promised comments in writing	we told Randy in the discussion we would give consideration to amending if deemed necessary

## **Periodic Review for NC Credit Union Division**

### **Response to Comments Submitted during the Public Comment Period**

#### **Comments were submitted by the Carolinas Credit Union League**

##### **And Randy Chambers of Self Help Credit Union**

**Introduction:** The powers, duties and functions of the North Carolina Credit Union Division (NCCUD) and the Administrator can be found in Chapter 54, Subchapter III. Specifically, it should be noted that the Administrator has broad authority over all corporations [credit unions] organized under the provisions of Article 14A. See N.C.G.S. § 54-109.12. The “Administrator of Credit Unions shall have general control, management and supervision over all corporations organized under the provisions of Article 14A. All corporations organized under the provisions of Article 14A shall be subject to the management, control and supervision of the Administrator of Credit Unions as to their conduct, organization, management, business practices and their financial and fiscal matters. The Administrator of Credit Unions may prescribe rules and regulations for the administration of this Article, as well as rules and regulations relating to financial records, business practices and the conduct and management of credit unions, and it shall be the duty of the board of directors and of the various officers of the credit union to put into effect and to carry out such regulations.” (emphasis added). N.C.G.S. § 54-109.12.

#### **Responses to Comments:**

**04 NCAC 06B .0402(b) Response of Administrator to Petition.** We disagree with the comment that this section should be deleted. We also do not agree that the section is too broad. It reaches the intended public that would be interested in the rules and regulations and organization of credit unions. Further, N.C.G.S. § 150B-4 (a) provides that the agency shall prescribe in its rules the procedure for requesting a declaratory ruling and the circumstances in which rulings shall or shall not be issued. However, the agency agrees with adding “good cause” language.

**04 NCAC 06C .0101 Definitions.** The comment was to delete definitions 3, 15, 16, & 17; and then add, Federal Insurer, Immediate Family and League. We disagree in part and agree to make some revisions. Relative to deleting 3, 15, 16, & 17, we disagree. It appears that the terms are used by the regulated public and they are in such that the word or phrase is qualified by its context such as Book Value (3) used in section 04 NCAC 06C .0501 Impairment. The three other terms (15) Interest on deposit accounts, (16) Interest on loans, (17) Interest refund, are also used by the regulated public and active in the call report. If it is in the best interest of the regulated public, the Division will revise the list of definitions and delete words that may not be used in the subchapter.

We agree to add a definition for League and replace the term North Carolina Credit Union League, wherever it appears in the rules, with the term League. We do not agree with adding the term Federal Insurer. The National Credit Union Administration (NCUA) is the federal entity that insures the credit unions nationwide including the State of North Carolina, similar to the FDIC which is the insurer for banks. In regards to “Immediate Family”, we have the definition in the proper sections in the rule and in those sections it provides the credit unions with the best understanding and usage of the definition.

**04 NCAC 06C .0201 Incorporation of State Charter Credit Unions.** We disagree and we do not plan to delete .0201(a) it is not verbatim. The rule provides guidance to the regulated public and it is necessary to serve the public interest. In addition, the agency is vested with the authority to prescribe these rules. See History Note (G.S. 54-109.1; 54-109.2(e); 54-109.3; 54-109.11(3); 54-109.12.)

**04 NCAC 06C .0202 Minimum Potential Membership Guidelines.** We do not plan to delete. The rule provides guidance to the regulated public and for those interested in starting a credit union; and it is necessary to serve the public interest. In initial meetings with those interested in chartering a credit union, the Division refers to this section and the resource information is correct in the minimum needs to charter a credit union.

**04 NCAC 06C .0209 Out of State Facilities.** We disagree; we do not plan to strike the phrase to seek the advice of an attorney to comply with that state’s laws and regulations. When opening a branch in another state, the North Carolina Credit Union Division does not have control of the other state’s requirements. We think it is necessary to seek the advice of an attorney. We will add to the **History Note. 54-109.7 Conducting business outside of this state.**

**04 NCAC 06C .0301 General Provisions.** At present there continues to be some use of manual procedures, therefore, we will not delete .0301(c). This section also requires the review of contracts which is significant to credit unions. It provides guidance relating to minimum requirements prescribed by the Administrator. Thus, .0301(c) is necessary.

We do not plan to delete .0301(d) due to similarities to 04 NCAC 06B .0300. The intent and breath of each is different and makes both necessary. 04 NCAC 06C .0301(d) provides that the regulated public may request modifications of this section in writing.

**04 NCAC 06C .0302 Procedures: 0302(29).** We disagree that this section is an outdated practice. The practice continues to be in place in credit unions and it promotes safety and soundness; however, technology has changed, and even though an employee may be on vacation, they may still have access to ledgers. The practice is necessary to serve the public interest. Some of the larger losses have been in those credit unions that were not able to have an employee out for five days consecutively; and that have had access to the ledgers; and without proper internal controls.

**04 NCAC 06C .0304 Management Duties.** We disagree; we think the rule offers guidance and is necessary to serve the public interest. The rule is also authorized by N.C.G.S. § 54-109.12.

**04 NCAC 06C .0306 Display of Financial Statements.** We disagree. The credit unions may post on the website but the requirement for the posting in the branch remains the same. There continues to be as many as 14% of the public that either do not have access or do not have the skills to utilize computers to find the information. We do not know the exact percentage of credit union members but considering the demographics of credit union members, we are certain that there are many that would not be able to get to the information without assistance. This will likely put a burden on the credit unions as staff may have to spend time showing or pulling it down from the website.

**04 NCAC 06C .0307 Listing of Official and Operating Hours.** We do not agree; the Division's Annual Personnel Data Report is more user friendly. The recommended change creates a concern based on the ability to get the information and the time it may take to get the information. If there is a change in the status of an official at the beginning of the call report period, the Administrator may not be advised for approximately 90 days versus 10 days as the rule requires. Depending on the position and the credit union this may be significant. We can get to the information needed with our Annual Personnel Data Report much sooner and determine if the changes may impact the credit union in a negative way. Therefore, this section is necessary. However, we agree to amend the Annual Personnel Data Report.

**04 NCAC 06C .0311 Fidelity and Surety Bond and Insurance Coverage.** We do not agree that this section needs to be modified. 04 NCAC 06C .0311(a) is not a repeat of the G S 54-109.11(5) and neither is the first line of .0311(c). The Rule was recently revised to allow more flexibility in the credit union's decision making process regarding bond companies and deductibles. The changes in the rule became effective March 1, 2016. An analysis was done to determine the actual deductibles at each credit union and the maximum amount they could move to with the changes that were effective March 1, 2016. Each credit union has a significant amount of room to increase their deductibles if they choose to. We have discussed this with several larger credit unions, but we have not seen any increases at this point. Increasing to NCUA's maximum would allow an increase for our four largest credit unions; however, it could create a safety and soundness issue for some credit unions if they are put in a position where there is a need for the credit union to max out the deductible at NCUA's maximum level.

**04 NCAC 06C. 0312 Insurance and Group Purchasing.** We disagree with the comment. We think the rule provides guidance and is necessary to serve the public interest. It also provides clarity.

**04 NCAC 06C. 0313 Credit Union Service Organization.** We disagree with the comment. We think the rule provides guidance and is necessary to serve the public interest.

**04 NCAC 06C. 0401 Delinquent Loans and Loan Losses.** We disagree with the comment. However, we agree with revising and updating the rule to reflect current NCUA rules and terminology, and in order to provide consistency.

**04 NCAC 06C .0402 Charge offs and Uncollectable loans.** We disagree with the comment. The Rule will be revised to make some of the terminology current. The rule speaks to months' delinquent and current federal rules are based on days' delinquent. We will make that change. There will also be a revision to provide adequate disclosure and recognition of probable losses and losses in the loan portfolio.



**04 NCAC 06C. 0404 Line of Credit Loans.** We disagree with deleting this rule. It provides guidance and it is necessary to serve the public interest. The rule does not repeat the statute that grants authority for a line of credit. This applies to liquidity reserves not to regular reserves.

**04 NCAC 06C. 0407 Member Business Loans.** We disagree with the comment. The Rule will be revised to reference the NCUA Member Business Lending Rule Part 723 and 741.203 and we will modify sections of the current federal rule to insure regulatory oversight by the State's Administrator.

**04 NCAC 06C. 0409 Loan Limitations.** The Rule will be revised to be consistent with the changes in 04 NCAC 06C .0407 and to clarify limitations if taken out of the revised .0407. The Member Business Lending rule will be revised and the sections may not be the same as previously written.

**04 NCAC 06C. 0501: Impairment.** We disagree with the comment. The rule is necessary to serve the public interest. The State's Administrator has to ensure the safety and soundness of a credit union. Therefore, the rule will remain to allow the Administrator the opportunity to regulate and oversee safety and soundness.

**04 NCAC 06C.0502 Insolvency.** We do not agree with deleting this rule since it is necessary to serve the public interest. The Administrator has regulatory oversight over issues of insolvency. It also provides guidance to the regulated public.

**04 NCAC 06C .0601 Dividends.** We disagree with the comment. The statutory authority provided is not applicable.

**04 NCAC 06C.0707 Statement of Accounts.** We disagree with the comment. However, we agree with revising this rule to be consistent with Federal Regulations.

**04 NCAC 06C .0801 Financial Statements and Other Information.** We disagree with the comment. The rule provides guidance to the regulated public and there does not appear to be any conflict with this rule.

**04 NCAC 06C .0901 Credit Union as Custodian.** We do not agree that the words "authorized to act as a custodian" should be deleted. This rule is necessary to serve the public interest. It provides guidance.

**04 NCAC 06C .1001 Permanent Records.** We disagree with the comment. The rule was modified to provide consistency with the guidance provided by NCUA. NCUA's guidance also suggest that they provide for the legal protections of the credit unions. The Rule was recently updated effective March 1, 2016. However, we will commit to researching this further and determine if changes are warranted.

**04 NCAC 06C .1002 Non-Permanent Records.** We disagree with the comment. The rule was modified to provide consistency with the guidance provided by NCUA. NCUA's guidance also suggest that they provide for the legal protection of the credit unions. The Rule was recently updated effective March 1, 2016.

**04 NCAC 06C. 1201 Investment Activities.** We disagree with the comment. This rule is necessary to serve the public interest. The rule also provides guidance and there does not appear to be any conflict with this rule.

**04 NCAC 06C .1204 Federal Funds.** We disagree with the comment. This section is not the proper authority. The statutory authority is derived from 2 sections: N.C.G.S. §§ 54-109.21(8) and 54-109.21(25).

**04 NCAC 06C. 1301 Liquidity Reserves.** We disagree; the rule should not be deleted. The rule allows regulatory oversight by the Administrator. See Chapter 54 of the North Carolina General Statute. We cannot rely only on the insurer to provide regulatory oversight on state chartered credit unions. The rule is necessary to serve the public interest.

**04 NCAC 06C. 1302 Other Reserves.** We disagree that .1302 (a) should be deleted. It does give direction to the source for the rule. The Administrator has the authority as in 54-109.12. to prescribe rules and regulations relating to financial records, business practices, organization, financial and fiscal matters. We also disagree that .1302(b) shall be deleted as it references rules that provide requirements for other reserves necessary for delinquent loans and lines of credit.

#### **Questions from Randy Chambers, Self- Help Credit Union**

**04 NCAC 06C .0302 Procedures.** We disagree with comment. See similar response above. Additionally, **.0302(18)** Erasures and eradications for corrections of errors in records are prohibited; corrections must be approved by an authorized person, that shall be approved by Board of Directors. We agree that was established when there were more manual credit unions. The number of manual credit unions has reduced; however, we must continue to regulate the manual credit unions. However, .0302 may not apply to all credit unions. .0302(23) Minutes; the credit union must use standard business practices in choosing what documents will go to the board if it is not specified by regulation.

**04 NCAC 06C .0307 Listing of Official and Operating Hours:** See similar response above.

**04 NCAC 06C .0311 Fidelity and Surety Bond and Insurance Coverage.** See similar response above.

**04 NCAC 06C. 0401 Delinquent Loans and Loan Losses.** See response above. Further, the rule will be revised to update it with current NCUA rules and terminology to provide consistency.

**04 NCAC 06C.0402 Charge offs and Uncollectable loans.** See response above. The rule will be revised to convert some of the terminology to current terms. The rule speaks to months' delinquent and current federal rules are based on days' delinquent. We will make that change. There will also be a revision to provide adequate disclosure and recognition of probable losses and losses in the loan portfolio.

**04 NCAC 06C. 0407 Member Business Loans.** See response above. The rule will be revised to reference the NCUA Member Business Lending Rule Part 723 and 741.203 and we will modify sections of the current rule to insure regulatory oversight by the Administrator.

**04 NCAC 06C .1001 Permanent Records.** See response above. The rule was modified to provide consistency with the guidance provided by NCUA. Their rule provides guidance and they suggest it is for the legal protection of the credit unions. The rule was recently updated effective March 1, 2016. We think it does meet the criteria set out 150B 21.9(a). The rule allows for the records to be put in any digital form, or electronic form that will allow for their retrieval and replication. Mr. Chambers expressed concerns

over maintaining signature cards, journal and cash records. General ledger, loan and shares, subsidiary ledgers, and bank reconciliations and a list of all records. We think that it is a business decision as to whether they wish to invest in the means to maintain the records. The rule does reference 12 C.F.R. Part 749 Appendix A for guidance on retention schedules. We do not feel that there is a conflict with the reference guidance and **04 NCAC 06C .1001.**



North Carolina  
323 West Jones Street, Suite 200  
Raleigh, North Carolina 27603

South Carolina  
Post Office Box 1787  
Columbia, South Carolina 29202

June 10, 2016

Tony Knox, Deputy Administrator  
North Carolina Credit Union Division  
205 West Millbrook Road, Suite 105  
Raleigh, NC 27609

Dear Mr. Knox:

In accordance with GS 150B-21.3A(c)(1), attached please find comments gathered by the Carolinas Credit Union League from its North Carolina member institutions regarding the administrative rules of the Division, which are currently subject to review by the Rules Review Commission. We have divided our recommendations into two primary categories – technical and substantive. The technical comments address rules or a section of rules that are considered to be largely unnecessary or redundant and therefore not in accordance in GS 150B-19.1(a)(4). The substantive comments are recommendations for changes to the administrative rules of the Division.

North Carolina law requires all credit unions to be Federally insured. In recent years, as the insurer of accounts, the NCUA has adopted extensive capital and operational rules designed to protect the insurance fund. G.S. 150B-19(4) specifically prohibits a North Carolina agency from adopting a rule that “repeats the contents of federal regulations.” As such, many of the Division’s rules are now merely duplicative of the Federal rules. We respectfully suggest that certain of the Division’s rules be repealed to eliminate this duplication. Since even minor differences are still differences, the confusion it creates for state-chartered credit unions should be addressed.

For presentation purposes, we have provided our comments in a summary chart as well as in a more detailed fashion following each individual rule. As always, we look forward to the opportunity to discuss our comments with you and appreciate this opportunity to continue our dialogue regarding your rules.

Sincerely,

John Radebaugh  
President/CEO

# Carolinas Credit Union League

Summary of Comments - Decennial Rules Review - 04 NCAC 06A - 06C

Rule Section	Rule Citation	Rule Name	Recommendation	Overview
SECTION .0100 - GENERAL INFORMATION	04 NCAC 06A .0101	NAME AND ADDRESS	No change	
SECTION .0300 - RULE-MAKING HEARINGS	04 NCAC 06B .0301	PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES	No change	
	04 NCAC 06B .0302	NOTICE OF RULE-MAKING HEARINGS	No change	
	04 NCAC 06B .0303	RULE-MAKING HEARINGS: GENERAL INFORMATION	No change	
	04 NCAC 06B .0401	PETITION FOR DECLARATORY RULING	No change	
SECTION .0400 - DECLARATORY RULINGS	04 NCAC 06B .0402	RESPONSE OF ADMINISTRATOR TO PETITION	Substantive	Delete .0402(b)(5) because it is too broad; Correct History Note - authority is in G.S. 150B-4, not 17 (technical)
	04 NCAC 06B .0501	RIGHT TO HEARING	No change	
SECTION .0500 - ADMINISTRATIVE HEARINGS	04 NCAC 06B .0502	INFORMAL SETTLEMENT	No change	
	04 NCAC 06B .0503	REQUEST FOR HEARING	No change	
	04 NCAC 06B .0504	NOTICE OF HEARING	No change	
	04 NCAC 06B .0505	INTERVENTION IN AN ADMINISTRATIVE HEARING	No change	
	04 NCAC 06B .0506	DEPOSITIONS	No change	
	04 NCAC 06B .0507	SUBPOENAS	No change	
	04 NCAC 06B .0508	SERVICE OF SUBPOENAS	No change	
	04 NCAC 06B .0509	OBJECTION TO A SUBPOENA	No change	
SECTION .0100 - GENERAL INFORMATION	04 NCAC 06C .0101	DEFINITIONS	Technical	Delete .0101(3), (15), (16), and (17); Add definitions for Federal Insurer, Immediate Family Member and League.
	04 NCAC 06C .0201	INCORPORATION OF STATE CHARTERED CREDIT UNIONS	Technical	Delete .0201(a) because it duplicates the requirements of the Credit Union Statute.
	04 NCAC 06C .0202	MINIMUM POTENTIAL MEMBERSHIP GUIDELINES	Technical	Delete .0202 because it is suggestive, not mandatory
	04 NCAC 06C .0203	FIELDS OF MEMBERSHIP	No change	
	04 NCAC 06C .0204	BYLAWS AND ARTICLES OF INCORPORATION	No change	

Rule Citation			Rule Name	Recommendation	Overview
SECTION .0200 - ORGANIZATION OF CREDIT UNIONS					
04 NCAC 06C .0205	LOANS TO CREDIT UNION OFFICIALS		No change		
04 NCAC 06C .0206	MERGER OF CREDIT UNIONS		No change		
04 NCAC 06C .0207	CONVERSION OF CHARTER FROM NORTH CAROLINA CHARTER		No change		
04 NCAC 06C .0208	CONVERSION OF CHARTER TO NORTH CAROLINA CHARTER		No change		
04 NCAC 06C .0209	OUT OF STATE OFFICE FACILITIES		Substantive	Strike the phrase "to seek the advice of attorney"; Add G.S. 54-109.6 and 109.7 as additional statutory references (technical)	
04 NCAC 06C .0301	GENERAL PROVISIONS		Technical	Delete .0301(c) since no credit unions continue to use manual records; Delete .0301(d) since the same requirement is located in Section 6B .0300 of the Rules.	
04 NCAC 06C .0302	PROCEDURES		Substantive	Delete .0302(29) - outdated practice/requirement;	
04 NCAC 06C .0304	MANAGEMENT DUTIES		Technical	Delete since it is suggestive, not mandatory	
04 NCAC 06C .0305	INDEPENDENT AUDITS		No change		
04 NCAC 06C .0306	DISPLAY OF FINANCIAL STATEMENTS		Substantive	Amend to allow posting of financial statement on website to meet requirement	
04 NCAC 06C .0307	LISTING OF OFFICIALS AND OPERATING HOURS		Substantive	Amend to allow comparable filings with Federal Insurer to meet requirement	
04 NCAC 06C .0308	BORROWING LIMITATIONS		No change		
04 NCAC 06C .0309	OPERATIONAL SYSTEMS		No change		
04 NCAC 06C .0310	SHARE DRAFT PROGRAMS		No change		
04 NCAC 06C .0311	Fidelity and SURETY BONDS AND INSURANCE COVERAGE		Technical	Amendments to .0311(a), (c), and (d) suggested to provide consistency with federal requirements	
04 NCAC 06C .0312	INSURANCE AND GROUP PURCHASING		Technical	Delete since it duplicates the requirements of the Credit Union Statute	
04 NCAC 06C .0313	CREDIT UNION SERVICE ORGANIZATION (CUSO)		Technical	Delete .0313(a) and (d) since they duplicate the requirements of the Credit Union Statute	
04 NCAC 06C .0401	DELINQUENT LOANS AND LOAN LOSSES		Substantive	Delete since inconsistent with other sections of the Rules and with requirements of the Federal Insurer	
04 NCAC 06C .0402	CHARGE-OFF OF UNCOLLECTIBLE LOANS		No change		
04 NCAC 06C .0403	REAL ESTATE LOANS		No change		
04 NCAC 06C .0404	LINE OF CREDIT LOANS		Technical	Delete since it duplicates the reserve requirements of the Credit Union Statute	
04 NCAC 06C .0407	BUSINESS LOANS		Substantive	Delete; Federal Insurer amended rules in 2016 that apply to all federally insured institutions	
04 NCAC 06C .0408	SALE OF LOANS		No change		
SECTION .0300 - BASIC INTERNAL CONTROLS: ACCOUNTING PROCEDURES AND OPERATION STANDARDS FOR STATE-CHARTERED					
SECTION .0400 - LOANS					

Rule Citation			Rule Name	Recommendation	Overview
SECTION .0500 - IMPAIRMENT AND INSOLVENCY	04 NCAC 06C .0409		LOAN LIMITATIONS	Technical	Amend .0409(a); Delete .0409(b)
	04 NCAC 06C .0410		Prohibited Fees	No change	
	04 NCAC 06C .0501		IMPAIRMENT	Substantive	Delete; Federal Insurer will take action under its capital rules before a credit union become impaired or insolvent
	04 NCAC 06C .0502		INSOLVENCY	Substantive	Delete
SECTION .0600 - DIVIDENDS; DEPOSITS AND INTEREST REBATE	04 NCAC 06C .0601		DIVIDENDS	Technical	Add G.S. 54-109.86(a)(3) to statutory authority
	04 NCAC 06C .0603		INTEREST REBATES	No change	
	04 NCAC 06C .0706		DORMANT ACCOUNTS	No change	
SECTION .0700 - ACCOUNTS	04 NCAC 06C .0707		STATEMENTS OF ACCOUNTS	Technical	Delete since it is superseded by Federal consumer protection rules
	04 NCAC 06C .0801		FINANCIAL STATEMENTS AND OTHER INFORMATION	Technical	Amend by deleting third sentence referencing "fines and penalties" as it repeats the requirements of the Credit Union Statute
	04 NCAC 06C .0802		ADDITIONAL REPORTS	No change	
SECTION .0900 - PENSION PLANS	04 NCAC 06C .0901		CREDIT UNION AS CUSTODIAN	Technical	Amend by deleting "is authorized to act as a custodian"
	04 NCAC 06C .0902		SUCCESSOR CUSTODIAN	No change	
SECTION .1000 - RETENTION OF RECORDS	04 NCAC 06C .1001		PERMANENT RECORDS	Substantive	Delete; Federal guidelines provided in Appendix A of NCUA Part 749 provide necessary guidance on records retention matters
	04 NCAC 06C .1002		NONPERMANENT RECORDS	Substantive	Delete
SECTION .1200 - INVESTMENTS	04 NCAC 06C .1201		INVESTMENT ACTIVITIES	Technical	Delete since it duplicates authority given in the Credit Union Statute and the prohibition contained in Rule 06C .1203
	04 NCAC 06C .1202		PERMISSIBLE TRANSACTIONS	No change	
	04 NCAC 06C .1203		RESTRICTED TRANSACTIONS	No change	
	04 NCAC 06C .1204		FEDERAL FUNDS	Technical	Add G.S. 54-109.82 to statutory authority
	04 NCAC 06C .1205		AUTOMATIC LIENS UPON ALL SHARES TO SECURE ALL DEBTS	No change	
	04 NCAC 06C .1301		LIQUIDITY RESERVES	Substantive	Delete - outdated; Federal Insurer has extensive liquidity requirements
SECTION .1300 - RESERVES	04 NCAC 06C .1302		OTHER RESERVES	Technical	Delete .1302(a) since it duplicates requirements of the Credit Union Statute; Delete .1302(b) since it only references other Rules
	04 NCAC 06C .1303		CORPORATE CREDIT UNION RESERVES	No change	
SECTION .1400 - SIGNATURE GUARANTEE SERVICES	04 NCAC 06C .1401		SIGNATURE GUARANTEE	No change	

*History Note: Authority G.S. 150B-38; 150B-40;  
Eff. June 1, 1990.*

## **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, 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 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 Union has on its books.
- (4) "Branch Office" means a facility which a Credit Union maintains and staffs at a location other than its main office to furnish Credit 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 Union with an institutional field of membership, as set forth in G.S. 54-110.1.
- (8) "Credit union" means a cooperative nonprofit corporation 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 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), or associations or organizations of Credit Unions, to 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.
- (10) "Deposits" means a preferred savings account on which the Credit Union is obligated to pay a guaranteed interest rate on a continuing basis in such amounts and terms as the Board of Directors approve.
- (12) "Dividend" means an operating expense of a Credit Union which 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.
- (13) "EDP" means electronic data processing.
- (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.



*Eff. June 1, 1990.*

#### **04 NCAC 06B .0506      DEPOSITIONS**

The use of depositions may be allowed only when attendance at a hearing would work a hardship on a person otherwise available to be subpoenaed as a witness, and such hardship is so great as to be unreasonable in light of the testimony that person may be expected to give. In such a case, a deposition will be taken in accordance with the North Carolina Rules of Civil Procedure. All necessary rulings as to whether a deposition will be allowed or as to methods of securing a deposition are within the power and discretion of the hearing officer.

*History Note:      Authority G.S. 1A-1; 150B-39;  
                         Eff. June 1, 1990.*

#### **04 NCAC 06B .0507      SUBPOENAS**

(a) Hearing Officer May Issue Subpoena. Any hearing officer may issue subpoenas in the name of the Administrator.  
(b) Request for Subpoena. Subpoenas requiring the attendance of witnesses, or the production of documents, evidence or things will be issued promptly by a hearing officer after receipt of a written request from a party to a contested case for such subpoena.

*History Note:      Authority G.S. 150B-38; 150B-39;  
                         Eff. June 1, 1990.*

#### **04 NCAC 06B .0508      SERVICE OF SUBPOENAS**

(a) Methods of Service. Subpoenas shall be served as the officer issuing the subpoena shall direct. Subpoenas may be directed to be served by any of the following methods:

- (1) by an employee of the Division; or
- (2) by the sheriff of the county in which the person subpoenaed resides, when the party requesting such subpoena prepays the sheriff's service fee.

(b) Form of Subpoena. Subpoenas will be issued in duplicate with a "Return of Service" form attached to each copy. The person serving the subpoena shall fill out the "Return of Service" form for each copy and promptly return one copy of the subpoena, with the attached "Return of Service" form completed.

*History Note:      Authority G.S. 150B-38; 150B-39;  
                         Eff. June 1, 1990.*

#### **04 NCAC 06B .0509      OBJECTION TO A SUBPOENA**

(a) Form of Objection. Except as may be otherwise stated in a particular subpoena, a party or person receiving a subpoena from the Division may object thereto by filing a written objection to the subpoena with the Division at its mailing address. An objection to a subpoena must include a concise but complete statement of reasons why the subpoena should be revoked or modified. These reasons may include any reason in law for holding the subpoena invalid.

(b) Service of Objection. The objection shall be served upon the Administrator and the party who requested the subpoena. Service shall be in accordance with the North Carolina Rules of Civil Procedure.

(c) Response to Objection. The party requesting the subpoena may file a written response to the objection. The response shall be served in like manner as the objection.

(d) Hearing on Subpoena. After receipt of the objection and response thereto, the hearing officer may issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify all other parties of a hearing, to be scheduled as soon as practicable, at which time evidence and testimony regarding the objection and response may be presented.

**04 NCAC 06B .0401 PETITION FOR DECLARATORY RULING**

(a) Petitioner Must Possess Interest. The petitioner must possess such an interest in the question to be ruled on that the petitioner's need to have such a ruling in order to comply with statutory requirements, Division rules, or Division policy shall be apparent from the petition and shall be fully explained therein.

(b) Form and Content of Petition. The petition shall be typewritten and shall contain the name and address of the petitioner, the specific factual situation involved, the question or questions sought to be answered, and the identification of the rules, statutes, or orders applicable to the question presented.

(c) Written Brief May Be Submitted. The petitioner may submit a written brief, but oral argument shall not be allowed unless deemed necessary by the Administrator.

(d) Mailing Address. All requests for declaratory rulings shall be mailed to the Division at its mailing address.

*History Note: Authority G.S. 54-109.12; 150B-17;  
Eff. June 1, 1990.*

**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.

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

- (1) The subject matter is one in which the Administrator has no authority to issue a binding decision;
- (2) 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;
- (4) The petitioner does not, in the opinion of the Administrator, possess sufficient interest in the question to be ruled on; or
- (5) For any other reason the Administrator finds the issuance of a declaratory ruling to be undesirable.

*History Note: Authority G.S. 150B-17;  
Eff. June 1, 1990.*

Substantive Changes:

(5) should be deleted because it is too broad.

**SECTION .0500 - ADMINISTRATIVE HEARINGS****04 NCAC 06B .0501 RIGHT TO HEARING**

Whenever the Administrator acts in such a way as to affect the rights, duties or privileges of a specific identified party, the party may appeal for a final decision by the Administrator in accordance with Article 3A of G.S. 150B.

*History Note: Authority G.S. 150B-38;  
Eff. June 1, 1990.*

**04 NCAC 06B .0502 INFORMAL SETTLEMENT**

(a) Attendance at Settlement Conference. Before a hearing request can be acted upon, a person must first make an effort to resolve the matter with the Division informally and must attend and participate in any scheduled meetings or conferences.

(b) Settlement Statement. A proposed settlement, including a stipulated statement of facts, shall be set forth in writing by the Division. If the proposed settlement is agreed to by all parties to the matter, it shall represent the final disposition of the matter and shall be signed by all parties to the matter or their legal representatives. If the proposed settlement is not agreed to and signed by all parties, then the matter shall proceed as provided in this Section.

*History Note:* Authority G.S. 54-109.12;  
Eff. June 1, 1990.

#### **04 NCAC 06B .0503 REQUEST FOR HEARING**

(a) Form of Request. A request for an administrative hearing must be in writing and must contain the following information:

- (1) name and address of the person requesting the hearing;
- (2) a concise statement of the action by the Administrator that is being challenged;
- (3) a concise statement of the manner in which the petitioner is aggrieved; and
- (4) a clear and specific demand for a public hearing.

(b) Address for Request. The request for hearing shall be filed with the Division at its mailing address.

*History Note:* Authority G.S. 54-109.12; 150B-38;  
Eff. June 1, 1990.

#### **04 NCAC 06B .0504 NOTICE OF HEARING**

Notice of a public hearing shall be given in writing to the appropriate parties in advance of the hearing date as required by the law applicable to the hearing being held.

*History Note:* Authority G.S. 150B-38;  
Eff. June 1, 1990.

#### **04 NCAC 06B .0505 INTERVENTION IN AN ADMINISTRATIVE HEARING**

(a) Petition to Intervene. A petition to intervene may be permitted if timely and if the petition meets the criteria set forth in G.S. 1A-1, Rule 24(b).

(b) Intervention Criteria. In addition, the Administrator, in his discretion, may allow intervention or limited intervention when:

- (1) Similar rights will be affected;
- (2) Intervention will not confuse issues;
- (3) Issues are the same or similar to the issue in question;
- (4) Intervention is in the public interest; and
- (5) Intervention will not prejudice the rights of parties.

(c) Form of Petition. A petition to intervene shall contain the name of the petitioner, the title of the hearing, the date and time of the hearing, if known, and the grounds for intervention. The petition for intervention shall be addressed to all parties affected thereby and to the Division at its mailing address.

(d) Notice of Intervention. If the Administrator allows intervention, notice of that decision shall be issued promptly to all parties and to the petitioner. Notification will include a statement of any limitation of time, subject matter, evidence, or other limitations imposed on the intervenor. If the Administrator's decision is to deny intervention, the petitioner will be notified promptly.

*History Note:* Authority G.S. 1A-1; 150B-38;

*History Note:* Authority G.S. 1A-1, Rule 24; 54-109.12; 150B-23; 150B-38; 150B-40;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. June 1, 1990.

## SECTION .0300 - RULE-MAKING HEARINGS

### 04 NCAC 06B .0301 PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES

- (a) Right to Petition. Any interested person may petition the Administrator to promulgate, amend, or repeal an administrative rule.
- (b) Form of Petition. The petition shall be in writing, signed by the petitioning party or parties and must include the address of the petitioning party. In addition, the petition shall contain the following information:
- (1) a draft of the proposed rule, amendment or repeal or a summary thereof;
  - (2) the reason(s) for the proposal;
  - (3) the effect on existing rules or orders or both;
  - (4) any data showing the probable effect of the proposal on existing practices in the area involved, including cost; and
  - (5) the names of those most likely to be affected by the proposal with addresses if reasonably known.
- (c) Address for Petition. Petitions shall be addressed to the Division at its mailing address.
- (d) Disposition of Petition. Upon receipt of a petition, the Administrator shall make a study of the facts stated in the petition and any additional information he deems relevant. The Administrator's disposition of the petition will be made in one of the following forms within 30 days of receipt of the petition:
- (1) a written denial of the proposal setting forth the reasons for the denial, or
  - (2) a written communication to the petitioner indicating the Administrator's plan to initiate rulemaking procedures pursuant to G.S. 150B-21.2.

*History Note:* Authority G.S. 54-109.12; 150B-20; 150B-21.2;  
Eff. June 1, 1990;  
Amended Eff. March 1, 2013.

### 04 NCAC 06B .0302 NOTICE OF RULE-MAKING HEARINGS

Any person or agency desiring to be placed on the mailing list for the Administrator's rule-making notices may file such request by furnishing a name and mailing address in writing to the Division at its mailing address. The request must state the subject areas within the authority of the Administrator's office for which the notice is requested. The Administrator may require actual postage and stationery costs to be paid by persons receiving such notices if the person receiving the notices requests more than one copy of the notice.

*History Note:* Authority G.S. 54-109.12; 150B-21.2;  
Eff. June 1, 1990;  
Amended Eff. July 1, 2013.

### 04 NCAC 06B .0303 RULE-MAKING HEARINGS: GENERAL INFORMATION

The hearing officer shall have control of the proceedings, including extensions of any time requirements, order of presentations, time allotments for presentations, direction of the flow of the discussion and the management of the hearing. Each person participating in the hearing shall be given an opportunity to present views, data, and comments.

*History Note:* Authority G.S. 54-109.12; 150B-21.2;  
Eff. June 1, 1990;  
Amended Eff. July 1, 2013.

## SECTION .0400 - DECLARATORY RULINGS

## CAROLINAS CREDIT UNION LEAGUE- DECENNIAL RULES REVIEW COMMENT

### SUBCHAPTER 6B - RULE-MAKING: DECLARATORY RULINGS AND CONTESTED CASES

#### SECTION .0100 - RULE-MAKING AND DECLARATORY RULINGS

##### 04 NCAC 06B .0101 PETITIONS

*History Note:* Authority G.S. 54-109.12; 150B-16;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. June 1, 1990.

##### 04 NCAC 06B .0102 NOTICE

*History Note:* Authority G.S. 54-109.12; 150B-12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

##### 04 NCAC 06B .0103 HEARINGS

*History Note:* Authority G.S. 54-109.12; 150B-11(3); 150B-12(d),(e);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

##### 04 NCAC 06B .0104 TEMPORARY RULES

*History Note:* Authority G.S. 54-109.12; 150B-13;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

##### 04 NCAC 06B .0105 DECLARATORY RULINGS

*History Note:* Authority G.S. 54-109.12; 150B-17;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. June 1, 1990.

#### SECTION .0200 - CONTESTED CASES

- 04 NCAC 06B .0201 REQUEST FOR HEARING
- 04 NCAC 06B .0202 GRANTING OR DENYING HEARING REQUESTS
- 04 NCAC 06B .0203 NOTICE OF HEARING
- 04 NCAC 06B .0204 WHO SHALL HEAR CONTESTED CASES
- 04 NCAC 06B .0205 PETITION FOR INTERVENTION
- 04 NCAC 06B .0206 TYPES OF INTERVENTION

- (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.
- (19) "Membership" in a Credit Union is limited to those persons or groups as stipulated in the bylaws of such Credit Union.
- (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.
- (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.
- (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.
- (23) Types of investment transactions are 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 Union or the purchaser.
  - (d) "Repurchase agreement" means an agreement whereby a Credit Union enters into an agreement to buy securities from a vendor and to resell securities at a future date. Repurchase agreements may be 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.
- (24) "Unimpaired capital" consists of the shares, undivided surplus and reserves less any known or probable losses, as determined by management.

*History Note: Authority G.S. 54-109.1; 54-109.2; 54-109.12; 54-109.21(25); 54-109.26; 54-109.86; 143-439; Eff. February 1, 1976; Readopted Eff. April 4, 1978; Amended Eff. July 1, 2013; January 1, 1992; October 1, 1983; April 1, 1979.*

Technical comments:

06C.0101 Definitions

The defined terms in Subsections 3,15, 16, and 17 are not used anywhere in the Rules. Suggest deleting these.

Suggest adding new defined terms:

“Federal Insurer” means the US government agency that insures the deposit accounts of Credit Unions. [Then make conforming changes wherever the term NCUA appears in the Rules.]

“Immediate family member” means a spouse or other family member living in the same household.

“League” means the trade association to which Credit Unions are eligible for membership. [Then make conforming changes wherever the term North Carolina Credit Union League appears in the Rules.]

#### **04 NCAC 06C .0102 POWERS OF A CREDIT UNION**

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

*Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. April 1, 1985.*

**04 NCAC 06C .0103 TAXATION**

*History Note: Authority G.S. 54-109.1; 54-109.2 (b)(5); 54-109.22; 54-109.99;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1983;  
Repealed Eff. January 1, 1992.*

S

**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 be organized as a corporation under the General Statutes, Articles 14A to 15 of Subchapter III, Chapter 54. The Credit Union law requires that the responsibility, character, and general fitness of the officers, directors, and committeemen is such to command the confidence of the members and the community, and to warrant belief by the Credit Union administrator that the business of the 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 League, the Credit Union Division or others, and other factors involved in its successful operation.

(b) 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.

*History Note: Authority G.S. 54-109.1; 54-109.2(e); 54-109.3; 54-109.11(3); 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1983.*

Technical Comments:

.0201(a) should be deleted since it duplicates the requirements of the Credit Union Statute.

**04 NCAC 06C .0202 MINIMUM POTENTIAL MEMBERSHIP GUIDELINES**

(a) Based on experience, established policy and standards, 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 minimum potential membership guidelines for chartering credit unions in each of the various types of groups are 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, the makeup of the membership group and the level of support is a key indicator for the degree of potential success. 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, local economic factors, and availability of other credit union service.

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

*History Note:* 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);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1983.

Technical Comments:

.0202 should be deleted since it is suggestive, not mandatory.

#### **04 NCAC 06C .0203 FIELDS OF MEMBERSHIP**

(a) Parity, for the purpose of this Section, allows the Administrator to approve fields of membership and permit state chartered credit unions the same latitude with regard to membership limitations and restrictions as is available to federally chartered credit unions, as set forth in 12 C.F.R. Part 701.1.

(b) New charters and expansion requests shall be reviewed and approved in conformity with credit unions organized under G.S. 54-109, Articles 14A to 14L.

(c) In allowing an expansion of the field of membership, any credit union shall be bound by membership limitations or restrictions contained in its charter or bylaws as amended and approved by the, Administrator, based on applicable rules and statutes.

*History Note:* Authority G.S. 54-109.1; 54-109.2(e); 54-109.3(3); 54-109.4; 54-109.11(3); 54-109.12; 54-109.21(25); 54-109.22; 54-109.26; 54-109.27; 54-109.28;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1977;  
Readopted Eff. April 4, 1978;  
Amended Eff. March 1, 2015; November 1, 1990; October 1, 1983; April 1, 1979.

#### **04 NCAC 06C .0204 BYLAWS AND ARTICLES OF INCORPORATION**

In addition to submitting the articles of incorporation, all credit unions desiring a state charter must prepare and adopt bylaws for the general government of the Credit Union, consistent with the General Statutes, Articles 14A to 15 of Subchapter III, Chapter 54. The articles of incorporation and bylaws shall be executed in duplicate and filed with the Administrator for approval.

*History Note:* Authority G.S. 54-109.2(c)(e); 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1983.



**04 NCAC 06C .0205 LOANS TO CREDIT UNION OFFICIALS**

(a) Officials. For purposes of this Rule, an "official" is a member of the Board of Directors, credit committee, or supervisory committee; the President, Chief Executive Officer, Chief Financial Officer, Comptroller, General Manager, Treasurer/Manager, or Executive Vice President; and Outside Attorneys and Outside Accountants of the credit union. For the purpose of this Paragraph, the following definitions apply:

- (1) "Outside Attorneys" means independent attorneys or law firms that are retained to provide 25 percent or more of the legal services for the credit union, based on the annual legal expense; and
- (2) "Outside Accountants" means independent accountants or accounting firms that are retained to provide accounting or audit services for the credit union.

(b) Loans to Officials. A loan or line of credit extended to an official as the borrower, direct obligor, endorser, cosigner, or guarantor with direct or indirect pecuniary interest in the loan shall be reviewed by the Board of Directors or a duly appointed committee thereof, as provided in Paragraph (c) of this Rule, at the next regular meeting following the date of such extension of credit, provided the following computation produces a total amount in excess of fifty thousand dollars (\$50,000) including limits of credit cards.

- (1) Add:
  - (A) the loan amount extended for the current loan;
  - (B) the outstanding balances of loans, including the used portion of an approved line of credit, extended to or endorsed, cosigned or guaranteed by the official; and
  - (C) the total unused portion of approved lines of credit extended to or endorsed, cosigned, or guaranteed by the official.
- (2) Subtract from the above total:
  - (A) the amount of shares pledged by the official on loans or lines of credit extended to, or endorsed, cosigned, or guaranteed by the official; and
  - (B) the amount of shares pledged by the official on the current loan or line of credit.

(c) Review of Loans to Officials by Duly Appointed Committee. The Board of Directors may appoint a committee to review and report on loans made to officials. All members of the committee shall be on the Board of Directors. The committee shall meet before the regular monthly board meeting to review all officials' loans that have been approved since the previous meeting. The committee shall make a report to the board that shall consist of at least the official's loan number, his or her title or position, the amount of the loan, purpose of the loan, aggregate amount of indebtedness to the credit union, and a statement regarding compliance with loan policies. Each credit union's Board of Directors shall review this loan approval report on a monthly basis. This review shall be done at the regular monthly board meeting. In the event the board does not meet monthly, a procedure shall be established whereby a written report shall be sent to each director on a monthly basis.

(d) Non preferential treatment. The rates, terms, and conditions on a loan or line of credit made to or endorsed, co-signed, or guaranteed by:

- (1) an official;
- (2) an immediate family member of an official. For the purpose of this Rule, "immediate family member" means a spouse or other family member living in the same household; or
- (3) any individual having a common ownership, investments, or other pecuniary interest in a business enterprise with an official or with an immediate family member of an official, shall not be more favorable than the rates, terms and conditions for comparable loans or lines of credit to other credit union members.

(e) Avoidance of conflicts. No official or any employee of the credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his or her pecuniary interest or the pecuniary interest of any corporation, partnership, or association (other than the credit union) in which he or she is directly or indirectly interested.

(f) Indirect Benefits. It shall be unlawful for an official or employee to:

- (1) have any interest or to benefit in any manner in the proceeds of a loan or from the sale by the credit union of any real or personal property unless the official or employee has disclosed to the Board of Directors of the credit union the nature and extent of the benefit that may be received and the loan or sale, regardless of the amount of money involved, has been approved by a vote of at least two thirds of the directors of the credit union; or
- (2) have any interest direct or indirect, in the purchase at less than face value of any savings account or evidence of indebtedness issued by a credit union.

(g) Penalty. A violation of the provisions of this Rule shall be sufficient basis for removal of any official or employee by the Administrator, as set forth in G.S. 54-109.19.

*History Note: Authority G.S. 54-109.12; 54-109.19; 54-109.39;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. March 1, 2015; August 1, 1998; October 1, 1983.*

#### **04 NCAC 06C .0206 MERGER OF CREDIT UNIONS**

Two or more credit unions may merge into a single credit union, provided the Administrator, after an investigation, is satisfied that the proposed merger is favorable to the continued success of the surviving credit union. Credit unions interested in merging should contact and discuss the proposed merger with the Administrator, after which the following must be accomplished to affect such merger:

- (1) Secure the Administrator's tentative approval of such a merger and his authorization to proceed with merger plans;
- (2) Have a plan of merger which has been agreed upon and approved by the majority of the Board of directors of each credit union joining in the merger;
- (3) The plan of merger must obtain the affirmative vote of a majority of the members of the merging credit union present at the meeting of the members duly called for such purpose;
- (4) For the surviving credit union in the merger, only a vote by the majority of the Board of directors of the Credit Union is required;
- (5) The present secretary of each credit union shall execute a certificate of merger, which shall set forth the following:
  - (a) the time and place of the meeting of the Board of directors at which the plan was agreed upon,
  - (b) the vote in favor of adoption of the plan,
  - (c) a copy of the resolution or other action by which the plan was agreed upon,
  - (d) the time and place of the meeting of the members at which the plan was agreed upon,
  - (e) the vote by which the plan was approved by the members of the merging credit union;
- (6) Approval of the appropriate regulatory authority if one or more of the merging credit unions is not a North Carolina chartered credit union.
- (7) Such certificates and a copy of the plans of merger agreed upon including amended bylaws to reflect changes in field of membership shall be forwarded to the Administrator of Credit Unions, certified by him, and returned to the merged credit union within 30 days.

Upon any such merger so effected, all property, property rights, and interest of the merged credit union shall vest in the surviving credit union without deed, endorsement or other instruments of transfer, and all debts, obligations and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union under whose charter the merger was effected.

The charter of the credit union whose identity is lost should then be revoked.

If circumstances warrant and if deemed necessary, the Administrator may waive or modify any of the foregoing procedures to affect a merger to protect the interest of the members of the Credit Unions.

*History Note: Authority G.S. 54-109.03; 54-109.4; 54-109.12; 54-109.21(25); 54-109.94;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1983; April 15, 1980.*

#### **04 NCAC 06C .0207 CONVERSION OF CHARTER FROM NORTH CAROLINA CHARTER**

(a) A North Carolina credit union may be converted into another state or federal credit union if permitted by the other state or the Federal Credit Union Act. The proposition for such conversion shall be approved, and a date set for a vote thereon by the members (either at a meeting to be held on such date or by written ballot to be filed on or before such date), by a majority of the Directors of the North Carolina Credit Union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member, or mailed to each member at the address for such

person appearing on the records of the Credit Union, not more than 30 days or less than seven days prior to such date. Approval of the proposition for conversion shall be by the affirmative vote of a majority of the membership of the members voting in person or in writing.

(b) A statement of the results of the vote, verified by the affidavits of the president or vice-president and the secretary, shall be filed with the North Carolina Credit Union Division within 10 days after the vote is taken.

(c) Promptly after the vote is taken and in no event later than 90 days thereafter, if the proposition for conversion was approved by such vote, such credit union shall take such action as may be necessary under the other state or the Federal Credit Union Act to make it a credit union of another state or a federal credit union; and within 10 days after receipt of the new credit union charter there shall be filed with the North Carolina Credit Union Division a copy of the charter thus issued. Upon such filing, the Credit Union shall cease to be a North Carolina chartered credit union.

(d) Upon ceasing to be a North Carolina credit union, such credit union shall no longer be subject to any of the provisions of the North Carolina Credit Union laws. The successor credit union shall be vested with all of the assets and shall continue responsibility for all of the obligations of the North Carolina Credit Union to the extent as though the conversion had not taken place.

*History Note:* Authority G.S. 54-109.95;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. April 1, 1981.

#### **04 NCAC 06C .0208 CONVERSION OF CHARTER TO NORTH CAROLINA CHARTER**

(a) Another state or federal credit union organized under applicable laws, may be converted into a North Carolina Credit Union by complying with all applicable requirements requisite to enabling it to convert to a North Carolina Credit Union or cease being a credit union of another state, or a federal credit union; and filing with the North Carolina Credit Union Division proof of such compliance, satisfactory to the Administrator of credit unions, and filing with the North Carolina Credit Union Division an organization certificate as required by the North Carolina Credit Union Act.

(b) When the Administrator of the North Carolina Credit Union Division has been satisfied that all of such requirements, and all other requirements of the General Statutes of North Carolina have been complied with, the Administrator of the Credit Union Division shall approve the organization certificate. Upon such approval, the Credit Union shall become a North Carolina credit union as of the date it ceases to be a credit union of another state or a federal credit union. The North Carolina Credit Union shall be vested with all of the assets and shall continue responsibility for all of the obligations of the Credit Union to the same extent as though the conversion had not taken place.

*History Note:* Authority G.S. 54-109.95;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. April 1, 1981.

#### **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 be submitted to the Administrator of credit unions for his approval insofar as North Carolina law is concerned. (The Administrator may request necessary information and conduct an investigation in evaluating the request.) It shall be the responsibility of the Board of directors of each credit union operating in more than one state to seek the advice of an attorney to see that the Credit Union complies with applicable state laws of the other state(s).

*History Note:* Authority G.S. 54-109.21(25);  
Eff. April 4, 1978.

#### **Technical Comments:**

.0209 should add GS 54-109.6 and 109.7 as additional statutory authorities.

#### **Substantive Comments:**

The phrase “to seek the advice of an attorney” should be stricken. The credit union should not be directed to hire an attorney by the Division.

**04 NCAC 06C .0210 OUT-OF-STATE CREDIT UNIONS**

*History Note: Authority G.S. 54-109.5; 54-109.21(25); 54-109.94; 54-109.95;  
Eff. October 1, 1983;  
Repealed Eff. January 1, 1992.*

**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.

(b) Credit 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 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).

(c) At least 60 days before a credit union converts its records from a manual to an Electronic Data 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, for EDP systems shall conform with the following as a minimum:

- (1) 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.
- (2) Terms of the contract, including dates for the beginning and end with disclosure of the charges to be incurred.
- (3) Notice of the termination of the servicing contract or agreement, consistent with industry standards.
- (4) The description of the equipment, services, reports, location of original documents and source data; method of transmittal of input information to the service center and applicable controls.
- (5) Maintenance agreement that is consistent with industry standards.
- (6) Availability of technically qualified personnel.
- (7) The due diligence and review by the Board of Directors or legal counsel.
- (8) Fidelity bond coverage for service center personnel and for losses due to system 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.

*History Note: Authority G.S. 54-109.12; 54-109.16; 54-109.17(a),(b);  
Eff. February 1, 1976;  
Amended Eff. November 1, 1977;  
Readopted Eff. April 4, 1978;  
Amended Eff. March 1, 2015.*

**Technical Comments:**

.0301(c) should be deleted since there are no Credit Unions that continue to use manual records.

(d) should be deleted since the same requirement is located in Section 6B.0300 of the Rules..

**04 NCAC 06C .0302 PROCEDURES**

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

- (1) An adequate general ledger and detailed cash journal shall be maintained for the control of all transactions of the Credit Union.
- (2) A record of all correcting and adjusting entries, with an explanation of each entry, shall be maintained.
- (3) For manual and computerized accounting systems, all receipts and disbursements shall be recorded and posted daily to cash journal and subsidiary accounts.
- (4) 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 held more than three banking days.
- (5) Security shall be provided (cash drawer and lockbox) at a minimum for storage of funds.
- (6) Credit union funds shall be kept separate from all other funds.
- (7) 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.
- (8) 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.
- (9) A pre-numbered receipt slip or other original record shall be made and preserved covering each payment received.
- (10) All bank or credit union accounts shall be reconciled at least monthly and such reconciliations preserved, as set forth in Rule .1002 of this Subchapter.
- (11) A duplicate of itemized bank or credit union deposit slips, or other comparable detailed item record, shall be preserved, as set forth in Rule .1002 of this Subchapter.
- (12) The exact status of all the credit union's funds, including investments and funds held by agents or attorneys shall be determinable at all times.
- (13) 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.
- (14) Disbursements shall be supported by invoices, vouchers, or other explanations of record, each showing the nature or purpose of each disbursement.
- (15) Dual control shall be maintained over all negotiable investment securities.
- (16) 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.
- (17) A trial balance of the general ledger shall be prepared within 15 working days from the close of business of the last day of each month and financial statements prepared therefrom.
- (18) Erasures and eradications for correction of errors in records are prohibited; corrections must be approved by an authorized person, that shall be approved by the Board of Directors.
- (19) Members' passbooks shall be held in the Credit Union office only if authorized by the Board of Directors.
- (20) A signed membership card file covering all accounts shall be maintained.
- (21) 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.
- (22) 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.
- (23) Minutes of meetings of the Board of Directors shall record all of its business transactions and be signed by the presiding officer and the secretary. Upon meeting as a Board of Directors, the secretary or designated member shall make a matter of record in the minutes of the meeting all written communications from the Division.
- (24) 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, as set forth in Rule .1002 of this Subchapter.
- (25) A report of actions taken by the credit committee or loan officers shall be prepared, signed, and preserved, as set forth in Rule .1002 of this Subchapter.
- (26) Minutes of each annual meeting of the members of the Credit Union shall record all business transacted.



- (27) All books and records of the Credit Union shall have protection from fire and other hazards at all times. Active books and records of the Credit Union should be located at the principal office at all times.
- (28) Dormant accounts shall be controlled to prevent improper withdrawal.
- (29) 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.
- (30) 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 Union's investment of funds in real estate mortgage loans.
- (31) All tax liabilities shall be determined and paid in accordance with the law.

*History Note:* Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17;  
 Eff. February 1, 1976;  
 Readopted Eff. April 4, 1978;  
 Amended Eff. March 1, 2015; January 1, 1992; July 1, 1988; December 1, 1979.

**Substantive Comments:**

.0302(29) should be deleted. This requirement is outdated and does not conform with current banking practices. The NC Banking Commission ("NCBC") has no similar rule for state chartered banks.

#### **04 NCAC 06C .0303 DEPRECIATION AND AMORTIZATION SCHEDULES**

*History Note:* Authority G.S. 54-109.12;  
 Eff. February 1, 1976;  
 Readopted Eff. April 4, 1978;  
 Repealed Eff. March 1, 2015.

#### **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. To maintain familiarity with current developments in the field of credit union management, services and operations as may be necessary, all management personnel and employees of credit unions should avail themselves of the educational opportunities as may be provided by the N.C. Credit Union League, the Credit Union Division, and others.

*History Note:* Authority G.S. 54-109.12; 54-109.35; 54-109.36;  
 Eff. February 1, 1976;  
 Readopted Eff. April 4, 1978;  
 Amended Eff. October 1, 1983.

**Technical Comments:**

.0304 should be deleted since it is suggestive, not mandatory.

#### **04 NCAC 06C .0305 INDEPENDENT AUDITS**

(a) An audit of each state-chartered credit unions shall occur at least once each calendar year and shall cover the period elapsed since the last audit. The audit will be performed using generally accepted auditing procedures and standards. It is the responsibility of the supervisory committee, or board of directors if there is no supervisory committee, to ensure that the annual audit is timely, that generally accepted auditing standards are used, that an adequate audit of the credit union records is conducted, and the audit report is promptly prepared and submitted to the board of directors. Workpapers of the supervisory committee and/or its independent auditors shall be made available for review by the Credit Union Division.

(b) Compensated auditors performing audits for credit unions must be independent of the credit union's employees, members of the board of directors, supervisory committee, credit committee, and/or the credit union's loan officers and members of their immediate families. Compensated auditors must be a Certified Public Accountant (CPA), or a bonded auditing firm, or a person who is bonded or has accountants' professional liability insurance coverage.

(c) Annual verification of depositors' and members' accounts will be done in conjunction with the annual audit and shall be made by either a controlled verification of 100 percent of share, deposit and loan accounts or a controlled random sampling method that provides assurance that the General Ledger accounts are fairly stated and that members' and depositors' accounts are properly safeguarded.

(d) A credit union shall obtain an outside independent audit by a certified public accountant for any fiscal year during which any one of the following is present:

- (1) the required annual audit was not performed or was not in accordance with Paragraphs (a), (b), and/or (c) of this Rule;
- (2) the credit union has experienced serious and/or persistent recordkeeping deficiencies. Persistent means continuing to exist or endure. Serious is when there is given cause for concern that the financial condition is not fairly and accurately presented and/or that management practices are not sufficient to safeguard the assets of the credit union. When a credit union fails to comply with this Rule, the administrator has the authority to engage an outside certified public accountant at the credit union's expense to conduct the required annual audit.

(e) This Rule shall not in any manner modify or limit the administrator's responsibility or authority to examine credit unions as set forth in G.S. 54-109.16, and it shall not modify or limit the administrator's authority to assess the cost of the examination against any credit union.

*History Note:* Authority G.S. 54-109.12; 54-109.17; 54-109.35(b); 54-109.49;  
 Eff. February 1, 1976;  
 Readopted Eff. April 4, 1978;  
 Amended Eff. October 1, 1991; October 1, 1983; May 1, 1983; January 1, 1983.

#### **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 statement shall be posted in both a conspicuous and available manner, so as to be accessible for inspection by members.

*History Note:* Authority G.S. 54-109.12;  
 Eff. February 1, 1976;  
 Readopted Eff. April 4, 1978;  
 Amended Eff. October 1, 1983.

Substantive Comments:

.0306 should be amended to permit a Credit Union to post its financial statements on its website.

#### **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 Committee and Supervisory Committee, managers or 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 10 business days.

*History Note:* Authority G.S. 54-109.12;  
 Eff. February 1, 1976;  
 Readopted Eff. April 4, 1978;  
 Amended Eff. July 1, 2013.

Substantive Comments:

.0307 should be amended to add a subsection (d) that reads:

"The information required by subsections (a) and (b) is not required to be sent to the Administrator in a separate report provided the information is accessible to the Administrator through call report data already provided to the Federal Insurer."

#### **04 NCAC 06C .0308 BORROWING LIMITATIONS**

No credit union may borrow funds from any source in excess of 50 percent of its unimpaired capital without the written approval of the Administrator. Nonmember deposit accounts are considered to be borrowed funds.

*History Note:* Authority G.S. 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978.

#### **04 NCAC 06C .0309 OPERATIONAL SYSTEMS**

(a) Credit unions, associations of credit unions, and any other parties interested in credit union programs may submit pilot programs relating to electronic funds transfer through remote service units, loan programs, and other operational systems to the Administrator for evaluation and approval.

(b) A program will be designated a pilot program if it is determined that the implementation of the program will provide the Administrator with the information necessary for the establishment of permanent programs which will effectively benefit all credit unions and the parties they serve.

(c) Where a pilot program is deemed appropriate and the submitting party is a state-chartered credit union, such state-chartered credit union will be designated as a credit union to implement the pilot program, provided the Administrator determines that the implementation by such state-chartered credit union would best serve the Administrator's observation and evaluation of the actual operation of the pilot program. If the requesting credit union is deemed unqualified for implementation, or if the submitting party is not a state-chartered credit union, the Administrator may, with the consent of the submitting party, designate an alternate credit union to test the program.

(d) A termination date will be specified for the Credit Union designated to implement a pilot program. If, at the termination date, additional time is needed for complete evaluation, the Administrator may extend the time at the request of the designated credit union. The Administrator reserves the right to terminate or otherwise modify any ongoing pilot program. At the end of the evaluation period or extensions thereof, the Administrator will determine the benefits of the program and may authorize other qualified credit unions to adopt the same program, or a modification thereof, in which case approval by the Administrator will be required.

*History Note:* Authority G.S. 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978.

#### **04 NCAC 06C .0310 SHARE DRAFT PROGRAMS**

Share draft programs are permissible if provided for in the Credit Union bylaws or have otherwise been approved by the Administrator.

*History Note:* Authority G.S. 54-109.12; 54-109.3(9)(11); 54-109.21(23); 54-109.22; 54-109.53;  
54-109.55;  
Eff. December 1, 1979.

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

(a) The Board of Directors of a 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 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 on the Credit Union Division website ([www.nccud.org](http://www.nccud.org)). These bond forms shall be considered the minimum coverages required for the purpose of this section. 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 rules and laws.



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

*History Note:* Authority G.S. 54-109.11 (5); 54-109.12; 54-109.44 (2);  
Eff. April 1, 1981;  
Amended Eff. March 1, 2016; July 1, 2013; February 1, 1992; April 1, 1985.

Technical Comments:

.0311(a) should be deleted since it duplicates the requirements of the Credit Union Statute.

(c) The first sentence should be deleted since it duplicates the requirements of the Credit Union Statute.

(d) Should be amended to read "Maximum deductible limits must be as required by the Federal Insurer." The bond primarily protects the Federal insurance fund and therefore the rules of the Federal Insurer should be the requirement.

#### **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 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 insurance to its members, the Credit Union board of directors should ensure that the service is professionally researched, is needed and wanted by the members, is accurately communicated, and is carefully monitored and evaluated to ensure that such action will not have an adverse effect on the safety and soundness of the Credit Union.

*History Note:* Authority G.S. 54-109.12; 54-109.75; 54-109.77; 54-109.92;  
Eff. March 1, 1982.

Technical Comments:

.0312 should be deleted since it duplicates the requirements of the Credit Union Statute.

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

(a) For purposes of this Section, a "credit union service organization" is an entity defined in Paragraph .0101(21) of these Rules.

(b) The purpose of a credit union service organization is to 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. It may 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, but not limited to, financial planning, and counselling, including retirement counselling, 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) other services, as determined by the Board of 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, within the limits specified by credit union law.
- (d) A credit union investing in or lending to a credit union service organization must submit call reports or any other information upon request by the Administrator.

*History Note:* Authority G.S. 54-109.2(b)(5); 54-109.21 (4); 54-109.21(14); 54-109.21(25);  
54-109.22; 54-109.27; 54-109.82(2);  
Eff. October 1, 1983.

Technical Comments:

.0313 (a) and (d) should be deleted since they duplicate the requirements of the Credit Union Statute.

## 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 shall list in columnar form the account number, names of borrowers, 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 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 but less than six months past due;
  - (2) Loans on which the delinquent installments are six months but less than 12 months past due;
  - (3) Loans on which the delinquent installments are past due 12 months or more.
- (b) Allowance for Loan Losses.
- (1) Each credit union shall establish and maintain such reserves as may be required by the Act or by regulation, or in special cases by the Administrator. All Credit Unions 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 as required by the Credit Union Laws.
  - (3) As a minimum, 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 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.

*History Note:* Authority G.S. 54-109.12; 54-109.17; 54-109.86; 54-109.87;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;

*Amended Eff. February 1, 1992; October 1, 1983; January 1, 1983; March 1, 1982.*

Substantive Comments:

.0401 should be deleted. Rule 06C.0301(b) requires Credit Unions with more than \$10 million in assets to follow accounting principles generally accepted in the US (GAAP) and those with less than \$10 million in assets to follow the accounting manual of the Federal Insurer. Both of these provide guidance regarding the record keeping and accounting for delinquent loans. These State requirements are somewhat different than GAAP or the Federal Insurer's manual and therefore create confusion and additional record keeping for Credit Unions. Some Credit Unions commented that the rule is not consistent with actual practices. The NCBC has no similar rule for state chartered banks.

#### **04 NCAC 06C .0402 CHARGE-OFF OF UNCOLLECTIBLE LOANS**

(a) All losses resulting from uncollectible 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 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 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 or more, unless there is a high probability of no loss, will 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.

*History Note: Authority G.S. 54-109.12; 54-109.17;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. February 1, 1992; January 1, 1983.*

#### **04 NCAC 06C .0403 REAL ESTATE LOANS**

(a) Loan Limitations. No more than 30 percent of the total dollar amount of shares and deposits shall be made in fixed rate real estate loans with a remaining maturity of more than seven years without the permission of the Administrator, based on the Administrator's evaluation of the credit union's management.

(b) Selection of Attorneys. If an attorney's fee is paid by the borrower in connection with any loans, the borrower shall have the right to select an attorney of his choice; provided, the attorney or attorneys are acceptable to the Credit Union. The decision as to the acceptability of the attorney or attorneys must be on a reasonable, nondiscriminatory standard to be determined by the Board of directors of each credit union.

*History Note: Authority G.S. 54-109.12; 54-109.18; 54-109.21(25);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. February 1, 1992; January 1, 1988; October 1, 1983; October 1, 1982.*

#### **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 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 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 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.

*History Note:* Authority G.S. 54-109.12;  
 Eff. February 1, 1976;  
 Readopted Eff. April 4, 1978;  
 Amended Eff. January 1, 1992; December 1, 1979.

Technical Comments:

.0404 should be deleted since it duplicates the statutory reserve requirements of the Credit Union Statute.

**04 NCAC 06C .0405 MAXIMUM INTEREST RATE ON LOANS**

*History Note:* Authority G.S. 54-109.65;  
 Eff. April 4, 1978;  
 Amended Eff. April 15, 1980;  
 Repealed Eff. April 1, 1985.

**04 NCAC 06C .0406 MAXIMUM UNSECURED LOAN LIMITS**

*History Note:* Authority G. S. 54-109.67;  
 Eff. October 1, 1983;  
 Repealed Eff. April 1, 1985.

**04 NCAC 06C .0407 BUSINESS LOANS**

(a) Prohibited fees. A North Carolina credit union shall not make any loan or extend any line of credit if, either directly or indirectly, any commission, fee or other compensation is to be received by the Credit Union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing or collecting the loan or line of credit. However, salary (except commissions) for employees is not prohibited by this Section. For purposes of this Section, "senior management employees" means the Credit Union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager), and the chief financial officer (Comptroller), and "immediate family member" means a spouse or other family member living in the same household.

(b) Member Business Loans.

(1) Definitions:

(A) Member business loans mean any loan, line of credit, or letter of credit, the proceeds of which will be used for commercial, corporate, business, investment property or venture, or agriculture purpose, except that the following shall not be considered member business loans for purposes of this Section:

- (i) A loan or loans fully secured by a lien on a one to four family dwelling that is the member's primary residence.
- (ii) A loan that is fully secured by shares in the credit union or deposits in other financial institutions.
- (iii) A loan meeting the general definition of member business loans under Part (b)(1)(A) of this Rule, and, made to a borrower or an associated member, which, when added to other such loans to the borrower or associated member, is less than fifty thousand dollars (\$50,000).
- (iv) A loan, the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the federal government or of a state or any of its political subdivisions.

- (v) A loan granted by a corporate credit union operating under the provisions of the North Carolina General Statutes to another credit union.
- (B) Reserves means reserve fund, undivided earnings, current earnings, and excludes the Allowance for Loan Losses.
- (C) Associated Member means any member with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower.
- (D) Immediate Family Member means a spouse, or other family member living in the same household.
- (E) Loan-to-Value (LTV) ratio means the quotient of the aggregate amount of all sums borrowed from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.
- (F) Construction or development loan means a financing arrangement for the purpose of acquisition of property or rights to property or rights to property including land or structures with the intent of conversion into income-producing property including residential housing for rental or sale, commercial or industrial use, or a similar use.
- (2) Requirements. Member business loans, as defined in Part (b)(1)(A) of this Rule may be made by credit unions only in accordance with the applicable provisions of Rule .0409 and .0205(d) and the following additional requirements:
  - (A) Written loan policies. The Board of Directors must adopt specific business loan policies and review them at least annually. The policies shall, at a minimum, address the following:
    - (i) Types of business loans that will be made;
    - (ii) The credit union's trade area for business loans;
    - (iii) Maximum amount of credit union assets, in relation to reserves, that will be invested in business loans;
    - (iv) Maximum amount of credit union assets, in relation to reserves, that will be invested in a given category or type of business loan;
    - (v) Maximum amount of credit union assets, in relation to reserves, that will be loaned to any one member or group of associated members, subject to Subpart (b)(2)(C)(i) of this Rule;
    - (vi) Qualifications and experience of personnel involved in making and administering business loans with a minimum of two years direct experience with this type of lending;
    - (vii) Analysis of the ability of the borrower to repay the loan;
    - (viii) Documentation supporting each request for an extension of credit or an increase in an existing loan or line of credit shall (except where the Board of Directors finds that such documentation requirements are not generally available for a particular type of business loan and states the reasons for those findings in the credit union's written policies) include the following: balance sheet, cash flow analysis, income statement, tax data, leveraging; comparison with industry averages; receipt and periodic updating of financial statements and other documentation; including tax returns;
    - (ix) Collateral requirements, including loan-to-value ratios; appraisal, title search and insurance requirements; steps to be taken to secure various types of collateral; and how often the value and marketability of collateral is reevaluated;
    - (x) Appropriate interest rates and maturities of business loans;
    - (xi) Loan monitoring, servicing and follow-up procedures, including collection procedures;
    - (xii) Provision for periodic disclosure to the credit union's members of the number and aggregate dollar amount of member business loans;
    - (xiii) Identification, by position, of those senior management employees prohibited by Rule .0205(d) of this Chapter from receiving member business loans.
  - (B) Other policies. The following minimum limits and policies shall also be established in writing and reviewed at least annually for loans granted under this Section:
    - (i) Loans shall be granted on a fully secured basis by collateral as follows:
      - (I) Second lien for LTV ratios of up to 70 percent;



- (II) First lien for LTV ratios of up to 80 percent;
- (III) First lien with a LTV ratio in excess of 80 percent shall be granted only where the value in excess of 80 percent is covered through acquisition of private mortgage, or equivalent type insurance provided by an insurer acceptable to the credit union or insurance or guarantees by or subject to advance commitment to purchase by, an agency of the federal government or of a state or any of its political subdivisions, and in no event shall the LTV ratio exceed 95 percent;
- (ii) Loans shall not be granted without the personal liability and guarantees of the principals (natural person members) except where the borrower is a not-for-profit organization as defined by the Internal Revenue Service Code (26 U.S.C. 501);
- (iii) All loans to non-natural persons, except to other credit unions, must be secured as required in Chapter 54-109.27 of the North Carolina General Statutes.
- (C) Loan Limits.
  - (i) Unless a greater amount is approved by the Administrator based on the factors set out in Subpart (b)(2)(C)(ii) of this Rule with the concurrence of the Regional Director of the National Credit Union Administration, the aggregate amount of outstanding member business loans to any one member or group of associated members shall not exceed 15 percent of the credit union's reserves (less the Allowance for Loan Losses account), or seventy-five thousand dollars (\$75,000) whichever is higher. If any portion of a member business loan is secured by shares in the credit union, or deposits in another financial institution, or fully or partially insured or guaranteed by, or subject to an advance commitment to purchase by, any agency of the federal government or of a state or any of its political subdivisions, such portion shall not be calculated in determining the 15 percent limit.
  - (ii) Exceptions. Credit unions seeking an exception from the limits of Subpart (b)(2)(C)(i) or Subparagraph (b)(3) of this Rule must present the Administrator of Credit Unions and the Regional Director of the National Credit Union Administration with, at a minimum; the higher limit sought; an explanation of the need by the members to raise the limit and ability of the credit union to manage this activity; an analysis of the credit union's prior experience making member business loans; and a copy of its business lending policy. The analysis of credit union experience in making member business loans shall document the history of loan losses, loan delinquency, volume and cyclical or seasonal patterns, diversification, concentrations of credit to one borrower or group of associated borrowers in excess of 15 percent of reserves (less the Allowance of Loan Losses account), underwriting standards and practices, types of loans grouped by purpose and collateral and qualifications of personnel responsible for underwriting and administering member business loans. The credit union must have written approval of the Administrator of Credit Unions and the Regional Director of the National Credit Union Administration to exceed the limitations contained in this Rule.
  - (iii) Maturity. Member business loans shall be granted for periods consistent with the purpose, security, creditworthiness of the borrower and sound lending policies.
  - (iv) Monitoring requirement. Credit unions with member business loans in excess of 100 percent of reserves (less the Allowance for Loan Losses account) shall submit the following information regarding member business loans to the Administrator on a quarterly basis: the aggregate total of loans outstanding; the amount of loans delinquent in excess of 30 days; the balance of the allowance for member business loan losses; the aggregate total of all concentrations of credit to one borrower or group of associated borrowers in excess of 15 percent of reserves (less the Allowance for Loan Losses account); the total number and amount of all construction, development or speculative loans; and any other information pertinent to the safe and sound condition of the member business loan portfolio.
- (D) Allowance for loan losses.

- (i) The determination whether a member business loan will be classified as substandard, doubtful, or loss, for purposes of the valuation allowance for loan losses, will rely on factors not limited to the delinquency of the loan. Nondelinquent loans may be classified depending on an evaluation of factors, including but not limited to, the adequacy of analysis and documentation.
  - (ii) Loans classified shall be reserved as follows:
    - (I) Substandard loans at ten percent of outstanding amount unless other factors (e.g. history of such loans at the Credit Union) indicate a greater or lesser amount is appropriate. Loans classified as substandard loans are inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged, if any. Loans classified must have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the Credit Union will sustain some loss if the deficiencies are not corrected. Loss potential, while existing in the aggregate amount of substandard loans, does not have to exist in individual loans classified substandard.
    - (II) Doubtful loans at 50 percent of outstanding amount. Loans classified as doubtful loans have all the weaknesses inherent in ones classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonably specific pending factors which may work to the advantage and strengthening of the loan its classification as an estimated loss is deferred until its more exact status is determined. Pending factors include: proposed merger, acquisition, or liquidation actions, capital injection, perfecting liens on additional collateral, and refinancing plans.
    - (III) Loss loans at 100 percent of outstanding amount. Loans classified as loss loans are considered uncollectible and of such little value that their continuance as loans is not warranted. This classification does not necessarily mean that the loan has absolutely no recovery or salvage value, but rather it is not practical or desirable to defer writing off this basically worthless asset even though partial recovery may occur in the future.
- (3) Construction and development lending. Loans granted under this Section to finance the construction or development of commercial or residential property shall be subject to the following additional provisions:
  - (A) The aggregate of all such loans, excluding any portion of a loan secured by shares in the credit union, or deposits in another financial institution, or fully or partially insured or guaranteed by, or subject to an advance commitment to purchase by, any agency of the Federal Government or of a State or any of its political subdivisions, shall not exceed 15 percent of reserves (less the Allowance for Loan Losses account);
  - (B) The borrower shall have a minimum of 35 percent equity interest in the project being financed;
  - (C) Funds for such projects shall be released following on-site inspections by independent credit union personnel, qualified as in Subpart (b)(2)(A)(vi) of this Rule in accordance with a draw schedule preapproved by the credit union.
- (4) Prohibitions.
  - (A) Senior management employees. A credit union may not make member business loans to the following:
    - (i) Any member of the Board of Directors who is compensated as such;
    - (ii) The credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager);
    - (iii) Any assistant chief executive officers (e.g. Assistant President, Vice-President or Assistant Treasurer/Manager);
    - (iv) The chief financial officer (Comptroller);

- (v) Any associated member or immediate family member of the senior management employees listed in Subparagraphs (b)(4)(A)(i) thru (iv) of this Rule.
- (B) Equity kickers/joint ventures. A credit union shall not grant a member business loan where a portion of the amount of income to be received by the credit union in conjunction with such loan is tied to the profit or sale of the business or commercial endeavor for which the loan is made.
- (5) Recordkeeping. All loans, lines of credit, or letters of credit, the proceeds of which will be used for a commercial, corporate, business, investment property or venture, or agriculture purpose, shall be separately identified in the records of the credit union and reported as such in financial and statistical reports required by the Administrator in Subpart (b)(2)(C)(iv) of this Rule or the Regional Director of the National Credit Union Administration.

*History Note:* Authority G.S. 54-109.12; 54-109.21(25); 54-109.78; Federal Regulation NCUA 741.3;  
Eff. January 1, 1988;  
Amended Eff. August 1, 1998; March 2, 1992.

**Substantive Comments:**

.0407 should be deleted. The Credit Union Statute requires all Credit Unions to be federally insured. The Federal Insurer has a business lending rule that is very specific and applies to all federally insured institutions. Those rules will be amended in 2016 by a proposal that has been subject to extensive comment. The amended Federal rules are substantively different from .0407. Different state rules will create confusion and require additional record keeping for Credit Unions. They may also restrict business lending in the markets served by Credit Unions that have the qualified staff to meet the requirements of the Federal rules. The Division has the authority to enforce Federal rules. G.S. 150B-19(4) specifically prohibits an agency from adopting a rule that "repeats the contents of federal regulations," so a state rule regarding business lending is unnecessary

**04 NCAC 06C .0408 SALE OF LOANS**

- (a) A credit union may sell its loans provided the Board of Directors or designated Committee approves the sale and a written agreement and a schedule of loans covered by the agreement are retained in the credit union office.
- (b) A credit union may not sell loans with recourse without the permission of the Administrator of Credit Unions.
- (c) A credit union may agree to service any obligation it purchases or sells in whole or in part.

*History Note:* Authority G.S. 54-109.12; 54-109.21(9); 54-109.21(25); 54-109.22;  
Eff. June 1, 1991.

**04 NCAC 06C .0409 LOAN LIMITATIONS**

- (a) No loan or line of credit advance shall be made to an individual member or immediate family member, as defined in Rule .0407(b)(1)(D), if such a loan or line of credit advance would cause 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. For purposes of this Section "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.

*History Note:* Authority G.S. 54-109.67;  
Eff. August 1, 1998.

**Technical Comments:**

.0409(a) should be amended to delete the definition of an immediate family member since that definition has been moved to Rule 6C.0101.

(b) should be deleted since it only references other Rules.

**04 NCAC 06C .0410 PROHIBITED FEES**



(a) A North Carolina Credit Union shall not make any loan or extend any line of credit if, either directly or indirectly, any commission, fee, or other compensation is to be received by the Credit Union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan or line of credit. For the purposes of this Rule, the following definitions shall apply:

- (1) "senior management employees" shall mean the Credit Union's Chief Executive Officer or President, the Treasurer or Manager, the Vice President, the Assistant Vice President, the Assistant Treasurer or Manager, the Chief Financial Officer, and the Comptroller; and
- (2) "immediate family member" shall include a spouse or other family member living in the same household.

(b) For purposes of this Rule, "compensation" shall include non-monetary items, except those of nominal value.

(c) For purposes of this Rule, the following shall not be considered a "commission, fee, or other compensation":

- (1) the annual salary of an employee;
- (2) the payment of an incentive or bonus based on the Credit Union's overall financial performance; and
- (3) the payment of an incentive or bonus to an employee other than a senior management employee, made in connection with a loan or loans made by the Credit Union. The Board of Directors of the Credit Union shall establish written policies and internal controls in connection with the payment of incentives or bonuses and shall monitor compliance with the policies and controls at least annually.

*History Note: Authority G.S. 54-109.12; 54-109.21(25); 54-109.22;  
Eff. March 1, 2016.*

#### **SECTION .0500 - IMPAIRMENT AND INSOLVENCY**

Substantive Comments:

Section .0500 should be deleted. As noted above, all Credit Unions must be federally insured and the federal Treasury provides funds for the insurance of accounts. The Federal Insurer has extensive capital requirements and enforcement authority. The Federal Insurer will take action under its capital rules before a Credit Union becomes impaired or insolvent. The NCBC has no comparable section in its rules.

#### **04 NCAC 06C .0501 IMPAIRMENT**

(a) An impairment of share capital shall be deemed to exist if the 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 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 of directors shall notify the Administrator. If required by the Administrator, the Board of directors shall disclose to all shareholders the impairment of capital and such other matters regarding the financial condition of the Credit Union as deemed relevant by the Administrator.

*History Note: Authority G.S. 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. January 1, 1983.*

#### **04 NCAC 06C .0502 INSOLVENCY**

Inability to meet demands of shareholders or creditors shall constitute insolvency.

*History Note:* Authority G.S. 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978.

## SECTION .0600 - DIVIDENDS: DEPOSITS AND INTEREST REBATE

### 04 NCAC 06C .0601 DIVIDENDS

- (a) The Board of directors of any credit union may declare dividends as its bylaws provide.
- (b) No dividend may be declared or paid unless the Credit Union has satisfied the statutory reserve requirements and any other reserve account that is required to be maintained in the discretion of the Administrator.

*History Note:* Authority G.S. 54-109.12; 54-109.44(5);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1983.

Technical Comments:

.0601 add GS 54-109.86(a)(3) to its statutory authority.

### 04 NCAC 06C .0602 DEPOSITS

*History Note:* Authority G.S. 54-109.12; 54-109.44(6);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. April 1, 1985.

### 04 NCAC 06C .0603 INTEREST REBATES

The Board of directors may authorize the payment of an interest rebate on loan accounts upon such reasonable terms as are consistent with the following provisions:

- (1) The Board of directors shall authorize the method of computation, payment and qualifications for participation in such rebate.
- (2) Any rebate of interest shall be recorded as a reduction of loan interest for the accounting period to which it applies.

*History Note:* Authority G.S. 54-109.12; 54-109.44(3);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978.

## SECTION .0700 - ACCOUNTS

- 04 NCAC 06C .0701 GENERAL
- 04 NCAC 06C .0702 INDIVIDUAL ACCOUNTS
- 04 NCAC 06C .0703 JOINT ACCOUNT AGREEMENT
- 04 NCAC 06C .0704 REVOCABLE TRUST AGREEMENT
- 04 NCAC 06C .0705 CUSTODIAL ACCOUNT FOR MINORS

*History Note:* Authority G.S. 54-109.12; 54-109.44(6);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Repealed Eff. June 1, 1990.

#### **04 NCAC 06C .0706 DORMANT ACCOUNTS**

After an account is declared dormant and the provisions of the law have been complied with, the Credit Union must transfer the dormant account to accounts payable (N.C. Escheats Fund) and maintain detailed records of such accounts until paid to the N.C. Escheats Fund according to the North Carolina Escheats Law.

*History Note:* Authority G.S. 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1982.

#### **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.

*History Note:* Authority G.S. 54-109.12;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978.

Technical Comments:

.0707 should be deleted since it has been superseded by Federal consumer protection rules.

### **SECTION .0800 - REPORTS TO ADMINISTRATOR**

#### **04 NCAC 06C .0801 FINANCIAL STATEMENTS AND OTHER INFORMATION**

Each credit union shall furnish a report of condition 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, as set forth in G.S. 54-109.13 and G.S. 54-109.15(b).

*History Note:* Authority G.S. 54-109.12; 54-109.13; 54-109.15;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. July 1, 2013; December 1, 1979.

Technical Comments:

.0801 should delete the third sentence referencing "fines and penalties" since it simply references the requirements of the Credit Union Statute.

#### **04 NCAC 06C .0802 ADDITIONAL REPORTS**

The Administrator may require any additional reports of the status of credit unions as he deems necessary. The additional reports are due within fifteen (15) days of the date specified by the Administrator.

*History Note:* Authority G.S. 54-109.12; 54-109.15;  
Eff. February 1, 1976;  
Readopted April 4, 1978;  
Amended Eff. December 1, 1979.

## 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 qualifies or qualified for specific tax treatment under Section 401(d) or 408 of the Internal Revenue Code, for its members or groups or organizations of its members, provided the funds of such plans are invested solely in share accounts of the Credit Union. All funds held in a custodial capacity must be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over such custodial accounts. The Credit Union shall maintain individual records for each participant which show in detail all transactions relating to the funds of each participant or beneficiary.

*History Note:* Authority G.S. 54-109.12; 54-109.21(21);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978.

Technical Comments:

.0901 should delete the words “is authorized to act as a custodian, and” since this language duplicates the authorization given by the Credit Union Statute.

### 04 NCAC 06C .0902 SUCCESSOR CUSTODIAN

The plan shall provide for the appointment of a successor custodian by a person, committee, corporation or organization other than the Credit Union or any person acting in his capacity as a director, employee or agent of the Credit Union, upon notice from the Credit Union or the Administrator that the Credit Union is unwilling or unable to continue to act as custodian.

*History Note:* Authority G.S. 54-109.12; 54-109.21(21);  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978.

## SECTION .1000 - RETENTION OF RECORDS

### 04 NCAC 06C .1001 PERMANENT RECORD

- (a) Each Credit Union shall retain its records in a manner consistent with reasonable business practices and applicable state and federal laws, rules, and regulations.
- (b) The Credit Union shall permanently retain the original records of the 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;
- (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.

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

*History Note: Authority G.S. 54-109.12; 54-109.17;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amendment Eff. March 1, 2016.*

Substantive Comments:

Section .1000 should be deleted. Appendix A of Part 749 of the rules of the Federal Insurer provide extensive guidelines on record retention. Many of the state rules are different from the Federal guidance. Again, different state and Federal rules create confusion. Many of the inquiries received by the staff of the League concerning record retention concern these rule differences. Unless the Division believes that there is a safety and soundness reason for a different set of requirements, it should defer to the Federal rules.

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

(a) Each Credit 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 and federal laws, rules, and regulations.

(b) Nonpermanent records shall include any Credit Union records not referenced in Rule .1001 of this Section.

(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.

*History Note: Authority G.S. 54-109.12; 54-109.17;  
Eff. February 1, 1976;  
Readopted Eff. April 4, 1978;  
Amended Eff. March 1, 2016.*

### **SECTION .1100 - FORMS USED BY CREDIT UNION DIVISION**

<b>04 NCAC 06C .1101</b>	<b>ORGANIZATION CERTIFICATE</b>
<b>04 NCAC 06C .1102</b>	<b>BYLAWS</b>
<b>04 NCAC 06C .1103</b>	<b>OATH OF OFFICE FORM</b>
<b>04 NCAC 06C .1104</b>	<b>CHARTER</b>
<b>04 NCAC 06C .1105</b>	<b>FINANCIAL AND STATISTICAL REPORT</b>
<b>04 NCAC 06C .1106</b>	<b>TAX IDENTIFICATION FORM</b>

*History Note: Authority G.S. 54-109.2(a),(b),(c),(d),(e); 54-109.3; 54-109.4; 54-109.12;  
54-109.15;  
Eff. February 1, 1976;*

*Readopted Eff. April 4, 1978;  
Amended Eff. October 1, 1983; December 1, 1979;  
Repealed Eff. April 1, 1985.*

## 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. Transactions such as agreements or options to buy or sell government securities at a future date, which are merely speculative in nature, are considered unsafe and unsound practices.

*History Note: Authority G.S. 54-109.12; 54-109.82; 54-109.92(a);  
Eff. April 1, 1979.*

Technical Comments:

.1201 should be deleted since it duplicates the authorization given by the Credit Union Statute and the prohibition contained in Rule 06C.1203.

### 04 NCAC 06C .1202 PERMISSIBLE TRANSACTIONS

Credit unions may:

- (1) purchase or sell securities in accordance with G.S. 54-109.1 et seq. and when the purchase or sale is to be completed within five business days after the agreement is made;
- (2) buy or sell a future contract only if it is used as a hedging contract incidental to the assembly of a pool of loans for sale in the secondary market;
- (3) enter into reverse repurchase agreements to meet ordinary and unexpected liquidity needs such as temporary share withdrawal or loan demands, but such agreements represent borrowing and are limited to the borrowing limitations as specified in Rule .0308 of this Subchapter;
- (4) enter into loan-type repurchase agreements only with their own members, other credit unions, or credit union organizations;
- (5) enter into investment-type repurchase agreements if the following elements of a sale of security are included:
  - (a) The Credit Union takes possession of the securities or receives a custodial or safekeeping receipt from a bank or other financial institution evidencing that the securities have been segregated from the general assets of the vendor.
  - (b) The Credit Union is not required to deliver the identical securities in the event of repurchase.
  - (c) The Credit Union assumes the risks of market fluctuation in the value of the securities at purchase.
  - (d) The Credit Union receives the coupons or stated interest rate dividend on the securities purchased for the time period owned.
- (6) deliver written application to the Administrator to make investments and purchase insurance, mutual funds and fixed or variable annuity products. The Administrator shall promptly grant or deny the application within 60 calendar days following receipt with or without conditions or provisions, upon consideration of the following factors:
  - (a) The investment or product is for the sole purpose of funding employee benefit, retirement or deferred compensation plans for employees of the Credit Union; and
  - (b) The investment or purchase is made consistent with G.S. 54-109.12.

*History Note: Authority G.S. 54-109.12; 54-109.82; 54-109.92(a);  
Eff. April 1, 1979;*

*Amended Eff. January 1, 2007.*

#### **04 NCAC 06C .1203 RESTRICTED TRANSACTIONS**

Transactions such as options to buy or sell securities for merely speculative purposes are unsafe and unsound practices. Credit unions may not enter into standby commitments or cash forward agreements to purchase or sell securities or reverse repurchasing agreements when used in a speculative pyramiding manner with the intent of using the funds received to purchase other securities.

*History Note: Authority G.S. 54-109.12; 54-109.82; 54-109.92(a);  
Eff. April 1, 1979.*

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

A credit union may invest in federal funds through any federally-insured financial institution.

*History Note Authority G.S. 54-109.21(8); 54-109.21(25);  
Eff. May 15, 1981;  
Amended Eff. March 1, 2016; October 1, 1983.*

Technical Comments:

.1204 should add G.S. 54-109.82 to its statutory authority.

#### **04 NCAC 06C .1205 AUTOMATIC LIENS UPON ALL SHARES TO SECURE ALL DEBTS**

In addition to the lien on shares, deposits and accumulated dividends of members as granted by G.S. 54-109.59, a credit union shall also have an automatic lien upon all such shares, deposits and accumulated dividends to secure the full amount of all debts owed to the credit union by its member. This lien shall be equivalent to that lien upon members' shares granted to all federally chartered credit unions by the National Credit Union Act and its regulations.

*History Note: Authority G.S. 54-109.21(25);  
Eff. December 1, 2006.*

### **SECTION .1300 - RESERVES**

#### **04 NCAC 06C .1301 LIQUIDITY RESERVES**

- (a) Credit unions with assets of two million (\$2,000,000) or more and credit unions which 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 Union's liability base.
- (b) The liability base shall consist of shares, deposits, and notes payable with a maturity of less than one year. Specifically pledged shares or deposits or both are exempted up to the amount of the loans.
- (c) The liquidity reserve shall consist of cash, shares and deposits in the National Credit Union Administration Central Liquidity Facility, 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. Government securities with a maturity of more than one year may be included provided securities are carried at the lower of cost or market and adjusted monthly on a consistent basis. Documentary evidence must be kept on file supporting the adjustments for a period of 18 months.
- (d) The liquidity reserve shall be determined monthly, not later than the tenth day of each month, and shall be based on the Credit Union's liability base as the last day of business of the preceding month.
- (e) The liquidity reserve can only 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 Union must immediately notify the Administrator of Credit Unions. The Credit Union will have 60 days to replenish the liquidity reserve.
- (f) 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.

*History Note: Authority G.S. 54-109.12; 54-109.86(c);  
Eff. December 1, 1979;  
Amended Eff. February 1, 1992; March 1, 1980.*



## Substantive Comments:

Section .1301 should be deleted. As noted with respect to Section .500, all Credit Unions must be federally insured and the Federal Insurer has extensive capital and liquidity requirements. The calculation in .1301 is outdated and not followed by Credit Unions. A separate state requirement is unnecessary and could create confusion.

**04 NCAC 06C .1302 OTHER RESERVES**

(a) Regular reserves shall be maintained as set forth in G.S. 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 .0401 and .0404(b) of these Rules and Regulations.

*History Note: Authority G.S. 54-109.12; 54-109.86(a)(b)(c);  
Eff. December 1, 1979.*

## Technical Comments:

.1302(a) should be deleted since it duplicates the requirements of the Credit Union Statute.

.1302(b) should be deleted since it only references other Rules.

**04 NCAC 06C .1303 CORPORATE CREDIT UNION RESERVES**

## (a) Definitions.

(1) A "corporate credit union" is a credit union whose primary mission is to serve corporate (credit union) accounts. The membership of a corporate credit union shall be institutional and only credit unions can become members, unless the bylaws otherwise prescribe.

(2) Risk assets of a corporate credit union shall be defined in G.S. 54-109.88.

## (b) Corporate Reserve.

(1) Immediately, before the payment of each dividend but more often if the Board of directors so determine, the gross earnings derived from activity with the Credit Union corporate members will be determined. From this amount there shall be transferred to a reserve known as the Corporate Reserve, 2 per centum of specified gross earnings until the Corporate Reserve shall equal one and one half per centum of the corporates total assets.

(2) Whenever the Reserves fall below one and one half per centum of total assets it shall be replenished by regular transfers of 2 per centum of specified gross earnings or by contributions in such amounts as may be needed to maintain the Reserves at one and one half per centum of total assets, whichever is less.

(3) The Administrator may increase or decrease the reserve requirement set forth herein when such action is deemed necessary or desirable.

(4) Charges may be made against the Reserves to offset losses on loans, and investments.

*History Note: Authority G.S. 54-110.8;  
Eff. December 1, 1979;  
Amended Eff. October 1, 1983.*

**SECTION .1400 - SIGNATURE GUARANTEE SERVICES****04 NCAC 06C .1401 SIGNATURE GUARANTEE**

Provided the following conditions are satisfied, a credit union may offer its members signature guarantee services in connection with the transfer of securities, name change on a security certificate, replacement of lost certificates, or erasures on a security certificate:

(1) The credit union obtains a bond endorsement protecting it against any loss or liability resulting from granting an improper signature guarantee.

(2) The credit union participates in a signature guarantee program endorsed by the Securities Transfer Association.



- (3) The credit union obtains the prior written approval of the Administrator before commencing its signature guarantee program.

*History Note:* Authority G.S. 54-109.12; 54-109.21(25);  
Eff. March 1, 1994.



June 10, 2016

Mr. Tony Knox  
Rule Making Coordinator  
North Carolina Credit Union Division  
205 West Millbrook Road, Suite 105  
Raleigh, North Carolina 27609

Re: Decennial Rules Review

Dear Mr. Knox,

I am writing on behalf of Self-Help Credit Union to provide you with our comments on the N.C. Credit Union Rules and Regulations, pursuant to the decennial rules review mandated by N.C. General Statutes § 150B-21.3A(c)(1).

With nearly 60,000 members and \$738 million in assets, Self-Help Credit Union is the second largest natural-person credit union supervised by the state of North Carolina. As you know, we have long been committed to ensuring that state-chartered credit unions are able to innovate and compete on an even playing field with federal credit unions ("FCUs") while balancing prudent risk management and supervision. Over the last eight years, we have also operated Self-Help Federal Credit Union, which has brought us the unique perspective of seeing the two charters and their relevant regulations side-by-side.

Based on these experiences, we strongly urge the North Carolina Credit Union Division ("NCCUD") to delete the rules governing member business loans and records retention. These rules are not necessary and therefore do not meet the standards of G.S. § 150B-21.9(a). We have additional, less significant, but important recommendations later in this letter. Here are our specific recommendations:

**Delete 04 NCAC 06C .0407 governing business loans.**

We urge NCCUD to recommend to the Rules Review Commission a final determination of "unnecessary" for this rule. 04 NCAC 06C .0407 does not meet all four criteria in G.S. § 150B-21.9(a), which sets forth standards for review by the Commission. Specifically, we believe 04 NCAC 06C .0407 creates ambiguity and is not reasonably necessary to implement or interpret an enactment of the General Assembly, Congress or a regulation of a federal agency.

The rule creates ambiguity because this rule was pre-empted by Congress for both federally- and state-chartered credit unions in 1998 with passage of the Credit Union Membership Access Act. Retention of this rule makes state-chartered credit unions less competitive with FCUs and creates undue confusion over which set of rules to follow for state-chartered credit unions.

In addition, the rule is not reasonably necessary to fulfill a duty delegated to NCCUD by the General Assembly. Removing this rule does not weaken or alter NCCUD's ability to supervise the business lending practices of credit unions. NCCUD has broad authority to enforce any federal regulation or act that specifically applies to state-chartered credit unions. This authority specifically includes any section of the National Credit Union Administration ("NCUA") rules and regulations and the Federal Credit Union Act that applies to state-chartered credit unions. NCUA's member business loan rule, under congressional statute, specifically applies to state-chartered credit unions (12 C.F.R. Part 723).

Under that same authority, NCCUD routinely requires credit unions to comply with an almost limitless set of federal rules that have no parallel, nor are spelled out, in state rules or regulation. These include the Bank Secrecy Act, OFAC requirements, Fair and Accurate Credit Transactions Act Red Flag Identity Theft Prevention rules and the Unlawful Internet Gambling Enforcement Act, to name just a few. Therefore, we see no demonstrable need, or authority, for NCCUD to retain a separate regulation governing credit union business loans.

**Delete 04 NCAC 06C .1001(c) governing permanent records.**

We urge NCCUD to recommend to the Rules Review Commission a final determination of "unnecessary" for this rule. 04 NCAC 06C .1001(c) does not meet all four criteria in G.S. § 150B-21.9(a), which sets forth standards for review by the Commission. Specifically, we believe 04 NCAC 06C .1001(c) is not reasonably necessary to implement or interpret an enactment of the General Assembly, Congress or a regulation of a federal agency. In addition, this rule creates ambiguity as it conflicts with federal guidelines referenced in the following rule, 04 NCAC 06C .1001(d).

Pursuant to G.S. § 54-109.17(a), "a credit union shall maintain all books, records, accounting systems and procedures in accordance with such rules as the Administrator from time to time prescribes. In prescribing such rules, the Administrator shall consider the relative size of a credit union and its reasonable capability of compliance."

The current rule states that "the following records *shall* be retained *permanently*... (emphasis added)

- (5) signature cards;
- (6) journal and cash record;
- (7) general ledger;
- (8) loan and share subsidiary ledgers;
- (9) bank reconciliations; and
- (10) a list of all records destroyed".

One interpretation of this current regulation is that we have to keep these records in perpetuity, none of which are reasonable documents to retain permanently. For example, if a member closes her \$5 share account today, we'd have to keep her signature card forever, even past her death or any other reasonable time frame. Similarly, a credit union would have to retain every teller's daily work forever as cash records, rather than destroying that record after a certain number of years.

In addition to being unduly burdensome, requiring permanent retention of a wide range of financial and transaction records, including a list of *all records* destroyed, is simply not feasible for most credit unions. We are not how to log all records that are destroyed and whether that authority to destroy records conflicts with the list of items that "shall be retained permanently".

Such a mandate also creates ambiguity as it directly conflicts with the federal guidelines referenced in the NCCUD's following rule, 04 NCAC 06C .1001(d), which refers credit unions to NCUA regulations, 12 C.F.R. Part 749 Appendix A, for retention schedule guidelines. Appendix A of Part 749 of the NCUA regulations states that certain records "should" be retained permanently, thus entrusting credit unions with the ability to determine how long it is prudent and necessary to keep certain records. NCUA expressly acknowledges in the preamble to Appendix A of Part 749 that its standard are guidance, not regulation: "...as an aid to credit unions, [NCUA] is publishing this appendix of *suggested* guidelines for record retention" (emphasis added). By replacing the word "should" with the word "shall" and not describing 04 NCAC 06C .1001(c) as *suggested* guidelines, NCCUD has created an unduly burdensome mandate for state-chartered credit unions, placing them at a disadvantage relative to FCUs.

From conversation with NCCUD, we do not believe it was the agency's intent to create this perpetual records retention requirement and therefore urge NCCUD to delete this regulation.

#### **Additional recommendations**

While these two changes are our principal recommendations to NCCUD, we also believe that the following sections of the Rules and Regulations merit amendment because they do not meet the standards of G.S. § 150B-21.9(a) either because they unclear and ambiguous, and/or they are not reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. We therefore recommend that you similarly deem them "unnecessary":

#### **04 NCAC 06C .0302 regulating procedures.**

Subsection (18) states that "erasures and eradications for correction of errors in records are prohibited; corrections must be approved by an authorized person, *that shall be approved by the Board of Directors*" (emphasis added). We believe this is a vestige of when member records were kept in manual ledger books, which we believe only one credit union still uses. We are unsure of whether this sentence requires changes be brought to the board or allows the board to designate an authorized person to approve changes. Either way, we assume that virtually no credit union presents changes to its records to its board of directors for approval nor has the board invest this authority in a specific employee.

Subsection (23) states that "...Upon meeting as a Board of Directors, the secretary or designated member shall make a matter of record in the minutes of the meeting all written communications from the Division." Credit unions routinely correspond with NCCUD on member complaints and other regulatory issues that do not merit presentation to the board of directors. Member complaints, for example, are generally the responsibility of a Supervisory Committee. We recommend that NCCUD clarify which communications, if any, merit being recorded in the minutes of the board of directors. For example, Self-Help Credit Union always presents any correspondence or reports related to its examinations to our Board of Directors.

#### **04 NCAC 06C .0307 regulating listing of officials and operating hours.**

We recommend that NCCUD reduce the administrative burden on credit unions and clarify that credit unions can meet the requirements of this section through their on-line reporting of this information to NCUA, which is accessible to NCCUD. Just as NCCUD uses NCUA's 5300 call reporting system to monitor performance, the separate Annual Personnel, Operations and Data Report is not reasonably necessary to NCCUD, as the same data can be obtained in the credit union's profile that is filed electronically with NCUA.

04 NCAC 06C .0311(c) and (d) governing fidelity and surety bonds and insurance coverage deductibles.

We urge NCCUD to recommend to the Rules Review Commission a final determination of "unnecessary" for these rules. 04 NCAC 06C .0311(c) and (d) do not meet all four criteria in G.S. § 150B-21.9(a), which sets forth standards for review by the Commission. Specifically, we believe 04 NCAC 06C .0311(c) and (d) are not reasonably necessary to fulfill NCCUD's duties with respect to fidelity and surety bonds and insurance coverage set forth in G.S. 54-109.11(5).

These rules are not necessary because minimum fidelity and faithful performance requirements are set forth in G.S. 54-109.11(5). In addition, as the insurer of all North Carolina credit unions, the National Credit Union Share Insurance Fund, administered by NCUA, is the primary beneficiary of bonding and insurance. There is no business, nor safety and soundness purpose to NCCUD regulating deductibles on fidelity and surety bonds and insurance coverage. In particular, NCCUD, unlike NCUA, limits deductibles on faithful performance and fidelity coverage. Finally, maximum deductible limits that may be applied to the required coverage are contained in Part 713.6 of the NCUA Rules and Regulations.

To the extent NCCUD can demonstrate a prudent reason why it should retain authority over deductibles, we recommend retaining the last sentence of 04 NCAC 06C .0311(c) designating exception authority to the Administrator, and making a determination that the remaining language in that rule is unnecessary.

04 NCAC 06C .0401 regulating delinquent loans and loan loss reporting.

Subsection (a) Monthly Schedule of Delinquent Loans. We believe this sub-section should be deleted. This rule provides very specific formatting definitions that we believe credit unions do not use and is not reasonably necessary to NCCUD. As with other rules, we believe this rule is a vestige of an era of very small credit unions using manual record keeping, and is not easily implemented by credit unions that may have hundreds of delinquent borrowers at the end of any single month.

04 NCAC 06C .0402 regulating loan charge-offs.

Subsection (c) States that "any loans delinquent 12 months or more, unless there is a high probability of no loss, will be charged off". While we agree this is an appropriate practice for all non-real estate secured loans, it is possible for a real estate borrower that is 12 months past due to be in a court-approved chapter 13 bankruptcy plan or otherwise paying the credit union. In such a case, there is not a "high probability of no loss". The borrower is in a high level of distress, but there is a reasonable probability of minimal loss and they are paying the credit union monthly. We recommend NCCUD amend this section to add the following language: "unless the loan is secured by real estate and the borrower is demonstrating a reasonable level of repayment, such as performing under the terms of a court-approved bankruptcy plan."

On behalf of our members and board of directors, Self-Help appreciates the opportunity to comment before the North Carolina Credit Union Division and the Rules Review Commission. We recognize, and support, the need to balance prudent supervision and retaining a charter that is competitive for the state of North Carolina and the communities we serve. As always, please do not hesitate to contact me should you have any questions at 919-956-4463 or via e-mail at [randy.chambers@self-help.org](mailto:randy.chambers@self-help.org).

Sincerely,

A handwritten signature in dark ink, appearing to read 'Randy Chambers', with a stylized flourish at the end.

Randy Chambers  
President

Potential Maximum Bond Deductibles in Comparison to Current Deductibles

Max Deductible with proposed changes	Name of Credit Unions	Current Deductible
\$1,000	Mount Vernon	\$100
\$4,752	Texas Gulf	\$1,000
\$6,966	Piedmont	\$250
\$9,105	Allvac Savings	\$2,500
\$17,821	BCBSNC	\$5,000
\$9,248	Fayetteville Postal	\$250
\$17,725	Greater Piedmont	\$5,000
\$15,002	GUCO	\$5,000
\$12,706	Greater Kinston	\$2,500
\$19,877	Oxford	\$2,500
\$9,018	Arcade	\$1,000
\$25,248	City of Raleigh Employees	\$5,000
\$19,672	Emergency Responders	\$1,000
\$8,949	Century Employees Savings Fund	\$2,500
\$33,056	Health Share	\$5,000
\$26,499	McDowell Cornerstone	\$1,000
\$15,236	TCP	\$250
\$30,024	CommScope	\$5,000
\$28,041	First Carolina People's	\$5,000
\$35,702	Southern Select	\$5,000
48,664	Charlotte Fire	\$5,000
\$38,310	First Legacy	\$15,000
\$37,877	Corning Cable Systems	\$10,000
\$33,485	Greensboro Postal	\$2,500
\$55,360	Ecusta	\$10,000
\$120,911	Telco Community	\$10,000
\$76,732	WNC Community	\$10,000
\$37,478	Blue Flame	\$2,500
\$166,311	Mountain	\$12,500
\$157,705	Summit	\$25,000
\$82,993	WEYCO	\$5,000
\$87,491	Carolina Postal	\$5,000
\$54,756	Hanesbrands	\$10,000
\$188,177	Champion	\$1,500
\$200,000	PACU	\$25,000
\$55,706	Telco	\$7,500
\$152,512	Latino Community	\$2,500
\$200,000	Members	\$25,000
\$200,000	Self - Help	\$50,000
\$200,000	SECU	\$25,000

# Comment Log for Decennial Report April 2016 Date

Date	Rule	complainant	Comments, Verbal or Written
5-Apr 06C.1001 & .1002		Carla Stamper	Question: Do we start now and go forward or do we keep everthing and move
28-Apr-16 06C.1001 &.1002		Randy Chambers	Verbal: Concerns over maintaining records on a permanent basis, and the expe
3-May-16 06C.1001 & .1002		Randy Chambers	Written: Notes that in 749 Appendix A, NCUA gives advice and direction but do pret them as the same, shall is more stringent. Randy also pulled in the NCCOB



Comment Log for Decennial Report April 2016 Date

forward. Primary discussion around the reconciliations, that they keep in a safe box.

nse of digitizing all records. Promises comments in writing

es not regulate in this area. Points out NCUA uses should and we use shall and unless we inter  
rule which is similar to our rule prior to March 1, 2016