PART ONE

Two Basic NCUA Advertisement Regulations

If you were to hand a rational person the table of contents of the National Credit Union Administration’s (NCUA) *Rules and Regulations*, and ask where he or she would go to review the requirements for advertisements under those rules, after a quick review the most likely answer would be: “Why, Part 740—Accuracy of Advertising and Notice of Insured Status—of course.” Indeed, that is the logical answer. To learn about the requirements for advertising, we should consult the section generally referred to as the “Advertising” Regulation.

But as students of regulatory compliance will confirm, when we’re talking federal regulations, relying on logic can sometimes get us into trouble. In fact, the rational person just mentioned would be correct, but only partially.

As we will discuss, NCUA’s *Rules and Regulations*, Part 740 does address advertising, but it only includes one of several pieces to the advertising compliance puzzle. NCUA also addresses advertising separately in Section 701.31, Nondiscrimination Requirements, and in Section 707, Truth-in-Savings.

Your Ad Must Be Accurate!

*NCUA’s Rules and Regulations, Part 740*

Part 740 of NCUA’s *Rules and Regulations* is required reading for any marketing professional when preparing an advertising campaign for a credit union. The rules in Part 740 apply to all federally insured credit unions and include:

- the general requirement that all advertisements made by a credit union must be accurate;
- specific requirements regarding advertisements of excess share insurance;
- specific requirements regarding use of the NCUA official sign and the NCUA official advertising statement in certain advertisements.

We begin with the definition of advertisement in Part 740 of the NCUA rules, which is, “a commercial message, in any medium, that is designed to attract public attention or patronage to a product or business.”
Accuracy in advertising is fundamental and is required not just in Part 740 but, as we shall see, in many other statutes and regulations. Part 740 states that in order for there to be “accuracy of advertising” the credit union “may not use any advertising or make any representation which is inaccurate or deceptive in any particular, or which in any way misrepresents its services, contracts, or financial condition...”

As for the rules addressing advertising of excess share insurance, the regulation is fairly straightforward: any advertising that mentions share or savings account insurance provided by a party other than the NCUA must clearly explain the type and amount of that insurance and the identity of the carrier, and it must avoid any statement of implication that the carrier is affiliated with the NCUA or the federal government.

As for the use of the NCUA official sign and the advertising statement, more discussion is in order.

What Sign?
The NCUA official sign, in color, can be found on NCUA’s website at https://www.ncua.gov/newsroom/Pages/downloadable-graphics.aspx. Although it may not be considered an advertising requirement, Section 740.4(a) requires every credit union display the official sign at each teller station or window at which insured account funds or deposits are accepted. The official sign should be displayed in the credit unions principal place of business and in all its branches, including the drive-through-windows. The NCUA automatically supplies all insured credit unions with an initial supply of official signs with a blue background and white lettering. The rules now allow for variations in color, materials, and size, as long as the credit union's signs are legible and otherwise comply with Part 740.
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FIGURE 1.1 THE NCUA SIGN

Must You Use an Official Statement?

Part 740 also addresses the required use of either the “official sign” (with some additional verbiage, as we’ll discuss) or the NCUA “official advertising statement.” The rule states that a credit union must include an official advertising statement in all of its advertisements, including credit unions main Internet page.

The NCUA official advertising statement may be displayed as one of four options:

1. “This credit union is federally insured by the National Credit Union Administration.”
2. “Federally insured by NCUA.”
3. “Insured by NCUA”
4. The official sign.

Any Exceptions?

A credit union should include an official advertising statement, as described in section 740.5, unless the advertisement falls into one of eleven exceptions:

1. Credit union supplies such as stationery, envelopes, deposit slips, checks, drafts, signature cards, account passbooks, and noninsurable certificates;
2. Signs or plates in the credit union office or attached to the building where the offices are located;
3. Listings in directories;
4. Advertisements that do not include the name of the credit union;
5. Display advertisements in credit union directories, provided the name of the credit union is listed on a page somewhere in the directory along with a symbol or other descriptive information indicating it is insured;
6. Joint or group advertisements of credit union services where the names of insured credit unions and noninsured credit unions are listed and form a part of that advertisement;
7. Radio advertisements that do not exceed 30 seconds in length;
8. Television advertisements, other than display advertisements, less than 30 seconds in length;
9. Advertisements of the type or character making it impractical to include the official advertising statement—including promotional items, such as calendars, matchbooks, pens, pencils, key chains, and golf balls;
10. Advertisements that contain a statement to the effect that the credit union is insured by the National Credit Union Administration, or that its accounts and shares or members are insured by the Administration to the maximum of $250,000 for each member or shareholder;
11. Advertisements that do not relate to insured member deposit or share accounts, including but not limited to ads relating specifically and only to the making of loans by the credit union or loan services, safe-deposit boxes, traveler’s checks on which the credit union issuing the advertisement is not primarily liable, and credit life insurance.

Keep in mind, even if a planned advertisement clearly fits within one of these exceptions, you are free to include the NCUA official advertising statement or sign so long as it would not be misleading (in the case of a non-insured product), and the aesthetics and space constraints allow for it. The official advertising statement should be placed in a prominent position on the cover page or the first page the reader sees. The official advertising sign and statement must be in a size and print that is clearly legible. The official advertising statement should be no smaller than the smallest font used in the main body (not the disclosures) of the advertisement.

When Is a Web Page an Ad?

One aspect of advertising occasionally overlooked is a credit union’s website. Websites are now standard fare for most credit unions. Part 740 provides that every insured credit union must display the official sign on Internet pages where it accepts deposits, or open accounts (see 740.4(a)), although the credit union may vary the font sizes to ensure the legibility of the sign.

NCUA’s Rules and Regulations, Part 740 can be summarized as follows: Any advertisement that directly or indirectly advertises insured share products must be accurate and must include either the NCUA official advertising sign or statement.
NOTES:
Sample Ad #1—Disclosing the Official Sign

Our first ad—a share draft advertisement, used with the permission of OSU Federal Credit Union in Corvallis, Oregon—is an example of an advertisement that displays the NCUA official sign and statement. Let’s review the compliance checklist on page 8 to see if the ad complies with NCUA’s *Rules and Regulations*, Part 740. (If you’re really into regulatory citations, refer to the checklist that includes the specific citations in appendix A.)
SAMPLE AD #1 • DISCLOSING THE OFFICIAL SIGN

Gas prices are soaring. Food prices are climbing. Some things remain constant.

Free Checking today, Free Checking tomorrow.
Save money. Gain convenience.
• Free online account access and bill pay
• Free debit card, instantly
• Free Phone Access Teller—24/7 service
• Free OSU Federal ATM use
• No minimum balance
• No monthly service fee

What more do you need? It’s free. Join today. If you live, work or go to school in Benton, Lincoln, Linn, Marion or Polk County, you can join OSU Federal.

OSU Federal
Your Community Credit Union®
DISCLOSING THE OFFICIAL SIGN • COMPLIANCE CHECKLIST

Yes  No

____   ____  1. Does the advertisement accurately reflect the account terms and conditions offered by the credit union? Yes.

____   ____  2. Does the advertisement directly or indirectly advertise insured shares? Yes.

____   ____  3. Does the advertisement include the NCUA official advertising statement or the NCUA sign? Yes, it includes both but should only use one.

____   ____  4. Is the official advertising statement or sign legible? No, it is recommended to use the official advertising statement on a piece like this to ensure legibility. If the advertisement uses NCUA sign it would need to be significantly larger.

Keep in mind, if the answer to question 3 above is no, we'll need to check to see that the advertisement fits into one of the 12 exceptions in NCUA’s Rules and Regulations, Section 740.5(c).
Your Ad May Not Discriminate!

**NCUA’s Rules and Regulations, Section 701.31**

Federal credit unions that make real estate-related loans must be aware of NCUA’s Rules and Regulations, Section 701.31. A real estate-related loan is defined there as “any loan for which application is made to finance or refinance the purchase, construction, improvement, repair, or maintenance of a dwelling.”

Section 701.31 contains regulatory requirements addressing nondiscrimination in lending, appraisals, and most important for our purposes, advertising. Section 701.31 makes it clear no federal credit union may directly or indirectly engage in any form of advertising of real estate-related loans that implies or suggests that the credit union discriminates in violation of the Fair Housing Act.

Which Rules Apply If You’re a Federal Credit Union?

In addition, Section 701.31 requires each advertisement for a real estate-related loan to include the **Equal Housing Lender logo**, as shown in figure 1.2. Advertisements for real estate-related loans broadcast on the radio must include the following statement:

The (Example) Federal Credit Union is an Equal Housing Lender.

*(Note: Although it is beyond the scope of this guide, Section 701.31(d) also includes a requirement regulation of a special notice that must be posted in the lobby of every federal credit union that makes real estate-related loans. See NCUA’s Rules and Regulations, Section 701.31(d)(3) for the specific logotype and text requirements for this lobby notice.)*

Section 701.31 is a regulation adopted by NCUA to implement the requirements of the Fair Housing Act. This is a federal statute which generally prohibits discrimination with regard to the sale or financing of real estate on the basis of race, color, religion, sex, familial status (having children under the age of 18), national origin, or handicap.

The Fair Housing Act is a federal statute that generally prohibits discrimination with regard to the sale or financing of real estate on the basis of race, color, religion, sex, familial status, national origin, or handicap.

The scope of the Fair Housing Act is quite broad. It addresses the practices of real estate brokers, landlords, advertisers, and financial institutions. Among its specific prohibitions, this law makes it unlawful for any entity whose business includes
the making or purchasing of loans secured by residential real estate to discriminate against any person in the terms and conditions of those loans on any of the bases listed above.

What If You’re a State-Chartered Credit Union?

A number of federal regulators have adopted regulations to implement the provisions of the Fair Housing Act, including, as we’ve discussed, NCUA in Section 701.31. But the rules in that section apply only to federal credit unions. State-chartered credit unions should follow the rules (24 CFR 109) previously adopted but since repealed by the federal Department of Housing and Urban Development (HUD) for compliance with the Fair Housing Act.

HUD has regulations are similar to the NCUA’s applicable to state chartered credit unions. However, HUD’s regulations require the use of the Equal Housing Opportunity notice, rather than the Equal Housing Lender notice. The poster requirement for state chartered credit unions is located in HUD’s FHA regulations at 24 CFR Part 110.25. State-chartered credit unions should also provide the spoken statement and/or the equal housing logo with television and radio advertisements, as applicable.