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Legal Review

The RegTraC books are designed to provide general information regarding regulations affecting credit unions. They are not intended to substitute for legal advice based upon specific facts in any individual case, and credit unions with regulatory concerns are advised to consult with attorneys or specialists to obtain advice directed to their specific circumstances.

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SECTION 1 – TRUTH IN SAVINGS/NCUA   PART 707
Overview

Authority

The Truth In Savings Act of 1991 (TISA) was enacted in December 1991. The statute directed the Federal Reserve Board (FRB) to implement regulations for all depository institutions except credit unions. It also directed the National Credit Union Administration (NCUA) to issue regulations for state-chartered and federally chartered credit unions “substantially similar” to the FRB Regulation DD (Reg. DD), taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

Purpose

TISA is basically a disclosure law, the purpose of which is to enable consumers (credit union members and potential members) to make meaningful comparisons of deposit accounts among depository institutions.

Truth In Savings imposes special disclosure requirements at five different points in the life cycle of a deposit account: 1) preaccount opening, 2) account opening, 3) periodic statements, 4) changes in account terms and account maturity, and 5) advertising.

Coverage

Credit unions are required to disclose to members fees, dividend and interest rates, and other terms in connection with an account before an account is opened, upon request, on periodic statements, and upon subsequent events.

TISA also establishes rules for payment of dividends or interest and advertising rules for deposit accounts.

NCUA Staff Commentary

On November 8, 1994, NCUA issued its Official Staff Interpretation (Commentary) to the Truth In Savings Rule (Part 707) incorporating much of the Supplementary information issued with Part 707 and addressing additional compliance questions.

Good-faith compliance with NCUA’s commentary affords credit unions protections from civil liability penalties.

Credit unions

NCUA’s regulation applies to all federal and state-chartered credit unions whether federally or privately insured, except corporate credit unions. (Regulation DD does not directly apply to credit unions.)

Covered accounts

The following are covered accounts:

- Traditional accounts such as: share, share draft, checking, and time deposits.
• Dividend-bearing and nondividend-bearing accounts.
• Insured and uninsured accounts (for example, a jumbo certificate account in excess of $100,000).
• IRA accounts.
• Uniform Gifts to Minors Act (UGMA) or Uniform Transfers to Minors Act (UTTMA) accounts.
• Accounts held by deposit brokers (only for purposes of advertising rules).

Accounts not covered by TISA

The rule does not cover the following accounts:
• Accounts held by an unincorporated nonbusiness association of natural persons (club or organization accounts). Originally, NCUA had included club accounts opened after the effective date as accounts covered by Truth In Savings.
• In the Riegle Community Development and Regulatory Improvement Act of 1994, Congress amended TISA to exempt unincorporated association accounts.

Note: While club accounts are not covered, credit unions may find it easier to treat these accounts as covered accounts rather than maintaining two different procedures, one for club accounts and another for all other accounts.
• Sole proprietorship accounts because such accounts are held for a business purpose.
• Accounts of natural persons who, in their professional capacity, hold the account for another (for example, attorney-client trust accounts and trust accounts opened by a trustee as a result of a formal written trust agreement).
• Nondeposit type accounts, such as mortgage escrow accounts, construction loan accounts, discount brokerage accounts, and overdraft line of credit accounts.

Members and potential members

NCUA defines account coverage for members by a consumer vs. business purpose account distinction. The term member under the final rule includes the following persons holding an account primarily for personal, family, or household (consumer) purposes: (1) natural person (individual) members who hold a consumer purpose account, and (2) a natural person nonmember (individual joint owner). Members holding an account for a purpose other than primarily for personal, family, or household (consumer) purposes and members holding an account for another in a professional capacity would not be covered.

For example, members holding accounts for corporations, partnerships and, sole proprietorships or other business purposes would not be covered. Similarly, attorney-client trust accounts and certain trust, estate, and court-ordered accounts would not be covered.

The term potential member is important as the credit union must give certain disclosures to “potential members.” The term includes a natural person with-