

may request in writing that the petitioner submit additional facts and records to support the appeal. The petitioner shall have 15 days from the date of issuance of such written request to provide such additional information. Failure by the petitioner to provide additional information may, as determined solely by the NCUA Board or its designee, result in denial of the petitioner's appeal.

(d) *Determination on appeal by NCUA Board or its designee.* (1) Within 90 days from the date of the receipt of an appeal by the NCUA Board or its designee or of its receipt of additional information requested under paragraph (c) of this section, the NCUA Board or its designee shall notify the petitioner whether the disapproval will be continued, terminated, or otherwise modified. The NCUA Board or its designee shall promptly rescind or modify the notice of disapproval where the decision is favorable to the petitioner.

(2) The determination by the NCUA Board on the appeal shall be provided to the petitioner in writing, stating the basis for any decision of the NCUA Board or its designee that is adverse to the petitioner, and shall constitute a final order of the NCUA Board.

(3) Failure by the NCUA Board to issue a determination on the petitioner's appeal within the 90-day period prescribed under paragraph (d)(1) of this section shall be deemed a denial of the appeal for purpose of § 747.905.

[56 FR 37767, Aug. 8, 1991; 57 FR 523, Jan. 7, 1992, as amended at 60 FR 31911, June 19, 1995]

**§ 747.905 Judicial review.**

(a) Failure to file an appeal within the applicable time periods, either to the initial determination or to the decision on a request for reconsideration, shall constitute a failure by the petitioner to exhaust available administrative remedies and, due to such failure, any objections to the initial determination or request for reconsideration shall be deemed to be waived and such determination shall be deemed to have been accepted by, and shall be binding upon, the petitioner.

(b) For purposes of seeking judicial review of actions taken pursuant to this section, suit may be filed in the United States District Court for the district where the requester resides, for the district where the credit union's principal place of business is located, or for the District of Columbia.

[56 FR 37767, Aug. 8, 1991; 57 FR 524, Jan. 7, 1992]

**Subpart K—Inflation Adjustment of Civil Monetary Penalties**

**§ 747.1001 Adjustment of civil money penalties by the rate of inflation.**

(a) NCUA is required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note)) to adjust the maximum amount of each civil money penalty within its jurisdiction by the rate of inflation. The following chart displays those adjustments, as calculated pursuant to the statute:

U.S. Code citation	CMP description	New maximum amount
(1) 12 U.S.C. 1782(a)(3) .....	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	\$2,200
(2) 12 U.S.C. 1782(a)(3) .....	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	\$22,000
(3) 12 U.S.C. 1782(a)(3) .....	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	\$1,100,000 or 1 percent of the total assets of the credit union, whichever is less
(4) 12 U.S.C. 1782(d)(2)(A) .....	First tier .....	\$2,200
(5) 12 U.S.C. 1782(d)(2)(B) .....	Second tier .....	\$22,000
(6) 12 U.S.C. 1782(d)(2)(C) .....	Third tier .....	\$1,100,000 or 1 percent of the total assets of the credit union, whichever is less
(7) 12 U.S.C. 1785(e)(3) .....	Non-compliance with NCUA security regulations.	\$110
(8) 12 U.S.C. 1786(k)(2)(A) .....	First tier .....	\$5,500
(9) 12 U.S.C. 1786(k)(2)(B) .....	Second tier .....	\$27,500

U.S. Code citation	CMP description	New maximum amount
(10) 12 U.S.C. 1786(k)(2)(C) ...	Third tier .....	For a person other than an insured credit union: \$1,175,000; For an insured credit union: \$1,175,000 or 1 percent of the total assets of the credit union, whichever is less
(11) 42 U.S.C. 4012a(f) .....	Per violation .....	\$385
	Per calendar year .....	\$110,000

(b) The adjustments displayed in paragraph (a) of this section apply to acts occurring beginning on October 23, 2000.

[65 FR 57280, Sept. 22, 2000]

**Subpart L—Issuance, Review and Enforcement of Orders Imposing Prompt Corrective Action**

SOURCE: 65 FR 8594, Feb. 18, 2000, unless otherwise noted.

**§ 747.2001 Scope.**

(a) *Independent review process.* The rules and procedures set forth in this subpart apply to federally-insured credit unions, whether federally- or state-chartered (other than corporate credit unions), which are subject to discretionary supervisory actions under part 702 of this chapter, and to reclassification under §§ 702.102(b) and 702.302(d) of this chapter, to facilitate prompt corrective action under section 216 of the Federal Credit Union Act, 12 U.S.C. 1790d; and to senior executive officers and directors of such credit unions who are dismissed pursuant to a discretionary supervisory action imposed under part 702. NCUA staff decisions to impose discretionary supervisory actions under part 702 shall be considered material supervisory determinations for purposes of 12 U.S.C. 1790d(k). Section 747.2002 of this subpart provides an independent appellate process to challenge such decisions.

(b) *Notice to State officials.* With respect to a federally-insured State-chartered credit union under §§ 747.2002, 747.2003 and 747.2004 of this subpart, notices, directives and decisions on appeal served upon a credit union, or a dismissed director or officer thereof, by the NCUA Board shall also be served upon the appropriate State official. Responses, requests for a hearing and to

present witnesses, requests to modify or rescind a discretionary supervisory action and requests for reinstatement served upon the NCUA Board by a credit union, or dismissed director or officer thereof, shall also be served upon the appropriate State official.

**§ 747.2002 Review of orders imposing discretionary supervisory action.**

(a) *Notice of intent to issue directive—*  
(1) *Generally.* Whenever the NCUA Board intends to issue a directive imposing a discretionary supervisory action under §§ 702.202(b), 702.203(b) and 702.204(b) of this chapter on a credit union classified “undercapitalized” or lower, or under §§ 702.304(b) or 702.305(b) of this chapter on a new credit union classified “moderately capitalized” or lower, it must give the credit union prior notice of the proposed action and an opportunity to respond.

(2) *Immediate issuance of directive without notice.* The NCUA Board may issue a directive to take effect immediately under paragraph (a)(1) of this section without notice to the credit union if the NCUA Board finds it necessary in order to carry out the purposes of part 702 of this chapter. A credit union that is subject to a directive which takes effect immediately may appeal the directive in writing to the NCUA Board. Such an appeal must be received by the NCUA Board within 14 calendar days after the directive was issued, unless the NCUA Board permits a longer period. Unless ordered by the NCUA Board, the directive shall remain in effect pending a decision on the appeal. The NCUA Board shall consider any such appeal, if timely filed, within 60 calendar days of receiving it.

(b) *Contents of notice.* The NCUA Board’s notice to a credit union of its intention to issue a directive imposing a discretionary supervisory action must state: