

**7535-01-U**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Chap. VII**

**Request for burden reduction recommendation; Consumer Protection: Share Account - Deposit Relationships and Miscellaneous Consumer Regulations; Economic Growth and Regulatory Paperwork Reduction Act of 1996 review**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice of regulatory review; request for comments.

**SUMMARY:** The NCUA Board is continuing its review of its regulations to identify outdated, unnecessary, or unduly burdensome regulatory requirements imposed on federally-insured credit unions pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). Today, NCUA requests comments and suggestions on ways to reduce burden in rules we have categorized as Consumer Protection: Share Account - Deposit Relationships and Miscellaneous Consumer Regulations, consistent with our statutory obligations. All comments are welcome.

We specifically invite comment on the following issues: whether statutory changes are needed; whether the regulations contain requirements that are not needed to serve the purposes of the statutes they implement; the extent to which the regulations may adversely affect competition; the cost of compliance associated with reporting, recordkeeping, and disclosure requirements, particularly on small credit unions; whether any regulatory requirements are inconsistent or redundant; and whether any regulations are unclear.

We will analyze the comments received and propose burden reducing changes to our regulations where appropriate. Some suggestions for burden reduction might require legislative changes. Where legislative changes would be required, we will consider the suggestions in recommending appropriate changes to Congress.

**DATES:** Comment must be received on or before October 6, 2004.

**ADDRESSES:** You may submit comments by any of the following methods (**Please send comments by one method only**):

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- NCUA Web Site:  
[http://www.ncua.gov/RegulationsOpinionsLaws/proposed\\_regs/proposed\\_regs.html](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html). Follow the instructions for submitting comments.

- E-mail: Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name] Comments on Third EGRPRA Notice” in the e-mail subject line.
- Fax: (703) 518-6319. Use the subject line described above for e-mail.
- Mail: Address to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.
- Hand Delivery/Courier: Same as mail address.

**FOR FURTHER INFORMATION CONTACT:** Ross P. Kendall, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6562.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction.**

NCUA seeks public comment and suggestions on ways it can reduce regulatory burdens consistent with our statutory obligations. Today, we request input to help us identify which requirements in the category Consumer Protection: Share Account - Deposit Relationships and Miscellaneous Consumer Regulations are outdated, unnecessary, or unduly burdensome. The rules in this category are listed in a chart at the end of this notice. The EGRPRA review supplements and complements the reviews of regulations that NCUA conducts under other laws and its internal policies.

In drafting this notice, the NCUA participated as part of the EGRPRA planning process with the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift

Supervision (Agencies). Because of the unique circumstances of federally-insured credit unions and their members, NCUA is issuing a separate notice from the four bank regulatory agencies, which are issuing a joint notice. NCUA's notice is consistent and comparable with the joint notice, except on issues that are unique to credit unions.

This category of rules includes Regulation E, Electronic Fund Transfers, 12 C.F.R. Part 205, which is issued by the Board of Governors of the Federal Reserve System (Federal Reserve). The NCUA has administrative enforcement authority for Regulation E for federal credit unions and the Federal Trade Commission has administrative enforcement authority for federally insured state credit unions. Regulation E is included in the joint notice in which the Federal Reserve is participating. Credit unions and other interested parties seeking to comment on this rule may either submit comments to the NCUA or the EGRPRA website, at [www.EGRPRA.gov](http://www.EGRPRA.gov), as specified in the joint notice. Commenters may address any aspect of the regulation, including specifically how the regulation uniquely affects credit unions.

## **II. A. The EGRPRA review requirements and NCUA's proposed plan.**

This notice is part of the regulatory review required by section 2222 of EGRPRA.<sup>1</sup> The NCUA described the review requirements in our initial Federal Register notice, published on July 3, 2003 (68 FR 39863). As we noted at that time, we anticipate that the EGRPRA review's overall focus on the "forest" of regulations will offer a new

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<sup>1</sup> Pub.Law No. 104-208, div. A, title II, §2222, 110 Stat. 3009-414; codified at 12 U.S.C. 3311.

perspective in identifying opportunities to reduce regulatory burden. We must, of course, assure that the effort to reduce regulatory burden is consistent with applicable statutory mandates and provides for the continued safety and soundness of federally-insured credit unions and appropriate consumer protections.

The EGRPRA review required that NCUA categorize our regulations by type. Our July 3, 2003, Federal Register publication identified ten broad categories for our regulations.

The categories are:

1. Applications and Reporting
2. Powers and Activities
3. Agency Programs
4. Capital
5. Consumer Protection
6. Corporate Credit Unions
7. Directors, Officers and Employees
8. Money Laundering
9. Rules of Procedure
10. Safety and Soundness

To spread the work of commenting on and reviewing the categories of rules over a reasonable period of time, we proposed to publish one or more categories of rules approximately every six months between 2003 and 2006 and provide a 90-day comment period for each publication. We asked for comment on all aspects of our plan,

including: the categories, the rules in each category, and the order in which we should review the categories. Because the NCUA was eager to begin reducing unnecessary burden where appropriate, our initial notice also published the first two categories of rules for comment (Applications and Reporting and Powers and Activities). NCUA published its second notice, soliciting comment on consumer protection rules in the lending area, on February 4, 2004 (69 FR 5300). All our covered categories of rules must be published for comment and reviewed by the end of September 2006.

The EGRPRA review then requires the Agencies to: 1) publish a summary of the comments we received, identifying and discussing the significant issues raised in them; and 2) eliminate unnecessary regulatory requirements. Within 30 days after the Agencies publish the comment summary and discussion, the Federal Financial Institutions Examination Council, which is an interagency body to which all of the Agencies belong, must submit a report to Congress. This report will summarize significant issues raised by the public comments and the relative merits of those issues. It will also analyze whether the appropriate federal financial institution regulatory agency can address the burdens by regulation, or whether the burdens must be addressed by legislation.

#### **B. Public response and NCUA's current Plan.**

NCUA received eight comments in response to its first notice, and four comments in response to its second notice. The comments have been posted on the interagency EGRPRA website, [www.EGRPRA.gov](http://www.EGRPRA.gov), and can be viewed by clicking on "Comments."

We are actively reviewing the feedback received about specific ways to reduce regulatory burden, as well as conducting our own analyses. Because the main purpose of this notice is to request comment on the next category of regulations, we will not discuss specific recommendations that we have received in response to our earlier notices here. However, as we develop initiatives to reduce burden on specific subjects in the future – whether through regulatory, legislative, or other channels – we will discuss the public’s recommendations that relate to our proposed actions.

In our last notice, we discussed how, in response to specific suggestions, both NCUA and the bank regulatory agencies divided the consumer protection regulations into two categories: 1) Lending-Related Rules, and 2) Share Account - Deposit Relationships and Miscellaneous Consumer Rules. As we had indicated then, some industry representatives have stated that the requirements imposed by the Consumer Protection regulations are among the most burdensome. This Notice is devoted to consideration of regulations in the Share Account - Deposit Relationships and Miscellaneous Consumer Rules category.

### **III. Request for comment on Consumer Protection: Share Account - Deposit Relationships and Miscellaneous Consumer Rules category.**

NCUA is asking the public to identify the ways in which the rules in the category of non-lending related consumer protection may be outdated, unnecessary, or unduly burdensome. If the implementation of a comment would require modifying a statute that

underlies the regulation, the comment should, if possible, identify the needed statutory change. The rules in this category are listed in the chart below.

We encourage comments that not only deal with individual rules or requirements but also pertain to certain product lines. For example, in the case of a particular type of share account, are any disclosure requirements under one regulation inconsistent with or duplicative of requirements under another regulation? Are there unnecessary records that must be kept? A product line approach is consistent with EGRPRA's focus on how rules interact, and may be especially helpful in exposing redundant or potentially inconsistent regulatory requirements. We recognize that commenters using a product line approach may want to make recommendations about rules that are not in our current request for comment. They should do so since the EGRPRA categories are designed to stimulate creative approaches rather than limiting them.

**Specific issues to consider.** While all comments are welcome, NCUA specifically invites comment on the following issues:

- **Need for statutory change.** Do any of the statutory requirements underlying these regulations impose redundant, conflicting or otherwise unduly burdensome requirements? Are there less burdensome alternatives?
- **Need and purpose of the regulations.** Are the regulations consistent with the purposes of the statutes that they implement? Have circumstances changed so



that the regulation is no longer necessary? Do changes in the financial products and services offered to consumers suggest a need to revise certain regulations or statutes? Do any of the regulations impose compliance burdens not required by the statutes they implement?

- **General approach / flexibility.** Generally, is there a different approach to regulating that NCUA could use that would achieve statutory goals while imposing less burden? Do any of the regulations in this category or the statutes underlying them impose unnecessarily inflexible requirements?
- **Effect of the regulations on competition.** Do any of the regulations in this category or the statutes underlying them create competitive disadvantages for credit unions compared to another part of the financial services industry?
- **Reporting, recordkeeping and disclosure requirements.** Do any of the regulations in this category or the statutes underlying them impose particularly burdensome reporting, recordkeeping or disclosure requirements? Are any of these requirements similar enough in purpose and use so that they could be consolidated? What, if any, of these requirements could be fulfilled electronically to reduce their burden? Are any of the reporting or recordkeeping requirements unnecessary to demonstrate compliance with the law?

- **Consistency and redundancy.** Do any of the regulations in this category impose inconsistent or redundant regulatory requirements that are not warranted by the purposes of the regulation?
- **Clarity.** Are the regulations in this category drafted in clear and easily understood language?
- **Burden on small insured institutions.** NCUA has a particular interest in minimizing burden on small insured credit unions (those with less than \$10 million in assets). More than half of federally-insured credit unions are small -- having \$10 million in assets or less -- as defined by NCUA in Interpretative Ruling and Policy Statement 03-2, Developing and Reviewing Government Regulations. NCUA solicits comment on how any regulations in this category could be changed to minimize any significant economic impact on a substantial number of small credit unions.

NCUA appreciates the efforts of all interested parties to help us eliminate outdated, unnecessary or unduly burdensome regulatory requirements.

**IV. Regulations about which Burden Reduction Recommendations Are Requested Currently.**

*Consumer Protection: Share Account - Deposit Relationships and Miscellaneous Consumer Rules:*

<b>Subject</b>	<b>Code of Federal Regulations (CFR) Citation</b>
Truth in Savings	12 C.F.R. Part 707
Privacy of Consumer Financial Information	12 C.F.R. Part 716
Accuracy of Advertising and Notice of Insured Status	12 C.F.R. Part 740
Notice of Termination of Excess Insurance Coverage	12 C.F.R. 741.5
Uninsured Membership Shares	12 C.F.R. 741.9
Disclosure of Share Insurance	12 C.F.R. 741.10
Share Insurance	12 C.F.R. Part 745
Electronic Fund Transfers (Regulation E – Federal Reserve)	12 C.F.R. Part 205

By the National Credit Union Administration Board on June 30, 2004.

*[signed]* \_\_\_\_\_

Becky Baker  
Secretary of the Board