

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 705, 708a, 708b, and 790

RIN 3133-AE

Agency Reorganization

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (“Board”) is issuing a final rule to implement certain features of the NCUA reorganization that the Board announced earlier this year. This rule amends the NCUA’s regulations related to the organization of the NCUA’s Central Office.

DATES: This rule is effective January 6, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Wirick, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314 or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. Background

In July 2017, the Board announced a plan to streamline and consolidate certain of the NCUA's functions and offices in an effort to reduce the NCUA's budget and increase efficiency. The portions of the Board's reorganization plan reflected in this rule will:

- Eliminate the Office of Small Credit Union Initiatives;

- Rename the Office of Consumer Financial Protection and Access the "Office of Consumer Financial Protection;" and

- Create a new office named the "Office of Credit Union Resources and Expansion" to absorb: (1) most of the current functions of the Office of Small Credit Union Initiatives; (2) the federal credit union chartering and field of membership functions of the Office of Consumer Financial Protection; and (3) the minority depository institution preservation program of the Office of Minority and Women Inclusion.

Other aspects of the Board's reorganization plan, such as changes affecting the Office of Examination and Insurance, do not require regulatory changes.

Additionally, the changes articulated in this rulemaking relate only to changes in the organization of the NCUA's Central Office, which become effective January 6, 2018. The two NCUA Regional Offices that are to be eliminated under the reorganization plan will not be closed until December 31, 2018. The Board will issue another rule in 2018 to reflect the reduction in the number of NCUA Regional Offices beginning in 2019.

II. Regulatory Procedures

1. Final Rule Under the Administrative Procedure Act (APA)

Generally, the APA requires a federal agency to provide the public with notice and an opportunity to comment on agency rulemakings.¹ This rule is exempt from the APA's notice and comment requirement because it only addresses the NCUA's organization and structure.²

2. Effective Date

¹ 5 U.S.C. 553(b)

² *Id.* (b)(A).

The APA also generally requires publication of a rule in the Federal Register at least 30 days before the effective date of the rule. Agencies can dispense with the 30-day requirement for good cause.³ The NCUA finds good cause to dispense with the 30-day effective date requirement, as this rule is technical rather than substantive. The rule will, therefore, be effective January 6, 2018 to coincide with the implementation of the NCUA’s reorganization plan.

3. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996⁴ (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the APA.⁵ As required by SBREFA, the NCUA has submitted this rule to the Office of Management and Budget for it to determine if the final rule is a “major rule” for purposes of SBREFA. The NCUA does not believe the rule is major.

4. Regulatory Flexibility Act.

The Regulatory Flexibility Act requires the NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under \$100 million in assets).⁶ This final rule will not have a

³ *Id.* 553(d)(3).

⁴ Pub. L. 104–121.

⁵ 5 U.S.C. 551.

⁶ 5 U.S.C. 603(a).

significant economic impact on small credit unions as it addresses only the NCUA's internal organization. Accordingly, the NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

5. Paperwork Reduction Act.

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or increases an existing burden.⁷ For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. As the final rule simply conforms the NCUA's regulations to reflect its new organizational structure, the NCUA has determined it does not increase paperwork requirements under the PRA.

6. Executive Order 13132.

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has therefore determined that this final rule

⁷ 44 U.S.C. 3507(d); 5 CFR part 1320.

does not constitute a policy that has federalism implications for purposes of the executive order.

7. Assessment of Federal Regulations and Policies on Families.

The NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 701

Credit unions, Chartering, Field of membership.

12 CFR Part 705

Credit unions, Grants, Loans, Low-income credit unions, Revolving fund.

12 CFR Part 708a

Credit unions, Charter conversions.

12 CFR Part 708b

Credit unions, Mergers of credit unions

12 CFR Part 790

Organization and functions (Government agencies)

By the National Credit Union Administration Board on December 14, 2017.

Gerard Poliquin,
Secretary of the Board

For the reasons discussed above, the National Credit Union Administration amends 12 CFR parts 701, 705, 708a, 708b, and 790 as follows:

**PART 701 – ORGANIZATION AND OPERATION OF FEDERAL CREDIT
UNIONS**

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601-3610. Section 701.35 is also authorized by 42 U.S.C. 4311-4312.

2. In Appendix B to Part 701, remove the term “Office of Consumer Financial Protection and Access” wherever it appears and add, in its place, the term “Office of Credit Union Resources and Expansion.”

PART 705 – COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS

3. The authority citation for part 705 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1766, 1782, 1784, 1785, 1786.

4. In §705.5(d), remove the term “Office of Small Credit Union Initiatives” and add, in its place, the term “Office of Credit Union Resources and Expansion.”

PART 708a – BANK CONVERSIONS AND MERGERS

5. The authority citation for part 708a continues to read as follows:

AUTHORITY: 12 U.S.C. 1766, 1785(b), and 1785(c).

6. Revise the first sentence of the definition of “Regional Director” in §708a.101 to read as follows:

* * * * *

Regional Director means either the director for the NCUA Regional Office for the region where a natural person credit union's main office is located or the director of the NCUA's Office of Credit Union Resources and Expansion.* * *

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**PART 708b -- MERGERS OF FEDERALLY-INSURED CREDIT UNIONS;
VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS**

7. The authority citation for Part 708b continues to read as follows:

Authority: 12 U.S.C. 1752(7), 1766, 1785, 1786, and 1789.

8. Revise the first sentence of the definition of "Regional Director" in §708b.2 to read as follows:

* * * * *

Regional Director means either the director for the NCUA Regional Office for the region where a natural person credit union's main office is located or the director of the NCUA's Office of Credit Union Resources and Expansion. * * *

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PART 790 – DESCRIPTION OF NCUA; REQUEST FOR AGENCY ACTION

9. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, 1795f.

10. Revise §790.2 to read as follows:

- a. Revise the second sentence of paragraph (b)(6);
- b. Revise paragraph (b)(12);
- c. Revise the third sentence of paragraph (b)(13); and
- d. Revise paragraph (b)(15).

The additions and deletions read as follows:

790.2 Central and field office organization.

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(b)(6) *Office of the Executive Director.* * * * The Executive Director translates the NCUA Board policy decisions into workable programs, delegates responsibility for these programs to appropriate staff members, and coordinates the activities of the senior executive staff, which includes: The General Counsel; the Regional Directors; and the Office Directors for the Asset Management and Assistance Center, Chief Economist, Chief Financial Officer, Chief Information Officer, Consumer Financial Protection, Continuity and Security Management, Credit Union Resources and Expansion, Examination and Insurance, Human Resources, Minority and Women Inclusion, National Examinations and Supervision, and Public and Congressional Affairs. * * *

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(12) *Credit Union Resources and Expansion.* This Office is responsible for coordinating NCUA policy and actions related to credit union chartering and field of membership, low income designation, and preserving credit unions run by minorities and/or serving minorities. The Office administers the Community Development Revolving Loan Program for Credit Unions (Program). This Program is funded from congressional appropriations and serves as a source of financial support, in the form of technical

assistance grants and loans to low-income credit unions serving predominantly low-income members. The Program is governed by part 705 of subchapter A of this chapter.

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(13) *Office of Minority and Women Inclusion.* * * * Specific duties of the Office include developing and implementing standards for: Equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the NCUA; increased participation of minority-owned and women-owned businesses in the programs and contracts of the NCUA, including standards for coordinating technical assistance to such businesses; and assessing the diversity policies and practices of credit unions regulated by the NCUA.

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(15) *Office of Consumer Financial Protection.* (i) The Office of Consumer Financial Protection contains two divisions:

- (A) The Division of Consumer Compliance Policy and Outreach; and
- (B) The Division of Consumer Affairs;

(ii) The Office provides consumer financial services, including consumer education and complaint resolution; establishes, consolidates, and coordinates consumer financial protections within the agency; oversees the agency's fair lending examination program;

and acts as the central liaison on consumer financial protection with other federal agencies.

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