

**7535-01-U**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 745**

**RIN:** 3133-AF11

**Joint Ownership Share Accounts**

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

**ACTION:** Final rule.

**SUMMARY:** The NCUA Board (Board) is amending its share insurance regulation governing the requirements for a share account to be separately insured as a joint account by the National Credit Union Share Insurance Fund (NCUSIF). Specifically, the final rule provides an alternative method to satisfy the membership card or account signature card requirement necessary for insurance coverage (signature card requirement). Under the final rule, even if an insured credit union cannot produce membership cards or account signature cards signed by the joint accountholders, the signature card requirement can be satisfied by information contained in the account records of the insured credit union establishing co-ownership of the share account. For example, the signature card requirement can be satisfied by the credit union having issued a

mechanism for accessing the account, such as a debit card, to each co-owner or evidence of usage of the joint share account by each co-owner.

**DATES:** The final rule is effective [INSERT DATE THAT IS 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Thomas I. Zells, Staff Attorney, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 548-2478.

**SUPPLEMENTARY INFORMATION:**

- I. Introduction**
- II. Final Rule**
- III. Legal Authority**
- IV. Discussion of Public Comments Received on the Proposed Rule**
- V. Regulatory Procedures**

**I. Introduction**

*A. Background*

In May 2020, the Board approved a notice of proposed rulemaking<sup>1</sup> (proposal or proposed rule) that would amend the NCUA's share insurance regulation governing the requirements for a share account to be insured separately as a joint account.<sup>2</sup> Specifically, the proposal addressed the requirement for separate joint account insurance that each co-owner of a joint account has personally signed a membership card or account signature card. In the event a federally insured credit union (FICU) could not produce from its records such membership cards or account signature cards, the proposal would explicitly permit the use of other evidence contained in a FICU's account records to satisfy the signature card requirement.

The proposed amendment mirrors a change made by the Federal Deposit Insurance Corporation (FDIC) in 2019 for federally insured depository institutions.<sup>3</sup> In proposing the change, the Board intended to better facilitate the prompt payment of share insurance in the event of a FICU's failure by explicitly providing alternative methods that the NCUA could use to determine the owners of joint accounts, consistent with the NCUA's statutory authority. The Board emphasizes that this change was not proposed, and is not being finalized, in reaction to any observed current problem with respect to identifying qualifying joint accounts at credit unions and processing insurance payments timely. Rather, the Board issued the proposed rule because it is important to maintain parity between the nation's two federal deposit/share insurance programs and to provide credit union members with equal access to insurance coverage. The Board proposed these regulatory changes with the belief that they will promote further

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<sup>1</sup> 85 FR 34545 (June 6, 2020).

<sup>2</sup> 12 CFR 745.8.

<sup>3</sup> 84 FR 35022 (July 22, 2019).

confidence in the credit union system and embody a forward-looking approach that will explicitly permit the use of new and innovative technologies and processes to meet the NCUA's policy objectives.

Under the Federal Credit Union Act (FCU Act), the NCUA is responsible for paying share insurance to any member, or to any person with funds lawfully held in a member account, in the event of a FICU's failure up to the standard maximum share insurance amount (SMSIA), which is currently set at \$250,000.<sup>4</sup> The FCU Act states that the determination of the net amount of share insurance paid "shall be in accordance with such regulations as the Board may prescribe" and requires that, "in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member's own benefit, either in the member's own name or in the names of others."<sup>5</sup> However, the FCU Act also specifically authorizes the Board to "define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy."<sup>6</sup>

The NCUA has implemented these requirements by issuing regulations recognizing particular categories of accounts, such as single ownership accounts and joint ownership accounts.<sup>7</sup> If an account meets the requirements for a particular category, the account is insured up to the \$250,000 limit separately from shares held by the member in a different account category at the

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<sup>4</sup> 12 U.S.C. 1787(k)(1)(A), (6).

<sup>5</sup> 12 U.S.C. 1787(k)(1)(B).

<sup>6</sup> 12 U.S.C. 1787(k)(1)(C).

<sup>7</sup> 12 CFR part 745.

same FICU. For example, provided all requirements are met, shares in the single ownership category will be separately insured from shares in the joint ownership category held by the same member at the same FICU.

Section 745.8 of the NCUA's regulations governs insurance coverage for joint ownership accounts.<sup>8</sup> Joint ownership accounts include share accounts held pursuant to various forms of co-ownership under state law. For example, joint tenants could each hold an equal, undivided interest in a share account. Section 745.8 provides that only "qualifying joint accounts" are insured separately from individually owned share accounts maintained by the co-owners.<sup>9</sup> "Qualifying joint accounts" generally must satisfy two requirements: (1) each co-owner has personally signed a membership card or account signature card; and (2) each co-owner possesses withdrawal rights on the same basis.<sup>10</sup> If a joint account is not a qualifying joint account, each co-owner's actual ownership interest in the account is considered individually owned and added to any other accounts individually owned by the co-owner and insured up to the SMSIA in the aggregate.<sup>11</sup> This may result in some uninsured shares if a member's single ownership accounts at the same FICU, including shares in any non-qualifying joint accounts, exceed \$250,000. Additionally, it is worth reiterating that, with limited exceptions, the FCU Act generally limits NCUA share insurance coverage to "member accounts."<sup>12</sup> Despite this general limitation, the

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<sup>8</sup> 12 CFR 745.8.

<sup>9</sup> *Id.*

<sup>10</sup> 12 CFR 745.8(c).

<sup>11</sup> 12 CFR 745.8(d).

<sup>12</sup> 12 U.S.C. 1752(5).

FCU Act<sup>13</sup> and the NCUA’s regulations<sup>14</sup> do allow a nonmember to become a joint owner with a member on a joint account with right of survivorship. The regulations provide that a nonmember's interest in such accounts will be insured in the same manner as the member joint-owner's interest.

The signature requirement has been included in the regulation governing insurance coverage since its inception in 1971.<sup>15</sup> The FDIC has had a substantially similar signature requirement since 1967.<sup>16</sup> In originally adopting this requirement, the FDIC “intended to address practices such as the addition of nominal co-owners to an account solely to increase deposit insurance coverage.”<sup>17</sup> The NCUA thereafter adopted a substantially similar requirement<sup>18</sup> and views it as a reliable indicator of account ownership and important to ensuring consistency with the FCU Act, which expressly limits the net amount of share insurance payable to any member, or person with funds lawfully held in a member account, based on the member account classifications prescribed by the Board.<sup>19</sup>

Neither the FCU Act nor the NCUA’s regulations define the terms “membership card” or “account signature card.” In implementing § 745.8, the NCUA has not required any particular format for a membership card or account signature card. Therefore, the agency has previously

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<sup>13</sup> 12 U.S.C. 1759(a).

<sup>14</sup> 12 CFR 745.8(e).

<sup>15</sup> 36 FR 2477 (Feb. 5, 1971).

<sup>16</sup> See 32 FR 10408, 10409 (July 14, 1967).

<sup>17</sup> 84 FR 35022, 35023 (July 22, 2019).

<sup>18</sup> The FCU Act generally requires that the NCUA determine “the net amount of share insurance payable ... in accordance with this paragraph, and *consistently with actions taken by the Federal Deposit Insurance Corporation* under section 1821(a) of this title.” 12 U.S.C. 1787(k)(1)(A) (emphasis added).

<sup>19</sup> 12 U.S.C. 1787(k)(1).

permitted FICUs to satisfy the requirement through various forms of documentation used in their account opening processes. The Board also wishes to reiterate that, consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act),<sup>20</sup> the signature requirement may be satisfied electronically. This has been the NCUA's long-standing position.

*B. Summary of Proposed Rule*

The May 2020 proposed rule would amend § 745.8 to explicitly provide for an alternative method to satisfy the signature card requirement. The proposed rule would specifically allow the signature card requirement to be satisfied by information contained in the account records of the FICU establishing the co-ownership of the share account, such as evidence that the FICU has issued a mechanism for accessing the account to each co-owner or evidence of usage of the share account by each co-owner. For example, under the proposal, the requirement could be satisfied by evidence that a FICU has issued a debit card to each co-owner of the account or evidence that each co-owner of the account has conducted transactions using the share account. These examples, however, were not intended to define the only forms of evidence of co-ownership that could satisfy the signature requirement. To the contrary, the evidence found in a FICU's account records could take many other forms.

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<sup>20</sup> Pub. L. 106-229, codified at 15 U.S.C. 7001(a).

The proposed amendment mirrors a change made by the FDIC in 2019 for federally insured depository institutions.<sup>21</sup> As noted in the proposal, the Board believes that the change would better facilitate the prompt payment of share insurance in the event of a FICU's failure by explicitly providing alternative methods that the NCUA could use to determine the owners of joint accounts, consistent with the NCUA's statutory authority. In the proposal, the Board emphasized that this proposed change was not in reaction to any observed current problem with respect to identifying qualifying joint accounts at FICUs and processing insurance payments timely. Rather, the Board issued the proposed rule because it is important to maintain parity between the nation's two federal deposit/share insurance programs and to provide credit union members with equal access to insurance coverage. The Board proposed these regulatory changes with the belief that they will promote further confidence in the credit union system and embody a forward-looking approach that will explicitly permit the use of new and innovative technologies and processes to meet the NCUA's policy objectives.

The proposed rule emphasized that the change would not introduce any new requirements for an account to be insured as a joint account, and would not reduce or affect insurance coverage for any account for which the existing joint account requirements are satisfied. The proposed rule simply would provide an alternative method to satisfy the existing signature card requirement for share insurance coverage as a qualifying joint account. Under the proposal, if each co-owner of a joint account signs, or has previously signed, a membership card or account signature card in accordance with the existing requirement and the FICU can produce it, then the proposed

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<sup>21</sup> 84 FR 35022 (July 22, 2019).



alternative method would be unnecessary. Assuming that the remaining qualifying joint account requirement is satisfied—that is, both co-owners possess equal withdrawal rights—and all other membership requirements are met,<sup>22</sup> the account would be insured as a joint account. The proposal noted that the change would apply to all FICUs and would not impose any increased burden or new recordkeeping requirements for joint accounts.

In the proposal, the Board also detailed the non-quantifiable benefits to owners of joint accounts. By explicitly providing alternative methods that the NCUA could use to determine the owners of joint accounts, the proposed rule would further support a prompt share insurance determination in the event of a FICU's failure, alleviating delays in the recognition of account ownership and uncertainty regarding the extent of share insurance coverage. The Board concluded that these benefits would promote confidence in the credit union system and NCUA-insured shares.

## **II. Final Rule**

This final rule follows publication of the May 2020 proposed rule. After carefully considering the comments and conducting further analysis, the Board affirms its rationale for issuing the proposal and is adopting the final rule as proposed, with one clarifying change. Specifically, the Board is using alternative language to better convey that the examples of evidence of co-

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<sup>22</sup> With limited exceptions, the FCU Act generally limits NCUA share insurance coverage to “member accounts.” 12 U.S.C. 1752(5). Despite this general limitation, the FCU Act and the NCUA’s regulations do allow a nonmember to become a joint owner with a member on a joint account with right of survivorship. 12 U.S.C. 1759(a). The regulations provide that a nonmember’s interest in such accounts will be insured in the same manner as the member joint owner’s interest. 12 CFR 745.8(e).

ownership in the proposed regulatory text do not define the only form of evidence that could satisfy the signature requirement. Pursuant to a suggestion from a commenter, the final rule revises proposed § 745.8(c)(2) by replacing “such as” with the phrase “including, but not limited to,” before the word “evidence.” Section 745.8(c)(2) will now state that the signature card requirement may be satisfied by information contained in the account records of the federally insured credit union establishing co-ownership of the share account, “including, but not limited to,” evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the share account by each co-owner. The Board finds that the phrase suggested by the commenter carries the same meaning as wording in the proposed rule and may eliminate any ambiguity that evidence in the account records other than the examples provided may be sufficient to establish joint ownership of a share account.

The Board also wishes to emphasize several key points made in the proposed rule and further discussed in response to comments received on the proposed rule.

First, the Board strongly emphasizes that this final rule only affects a requirement in the NCUA’s regulations that must be satisfied for a share account to be separately insured as a joint account; it does not affect any other legal requirements applicable to FICUs. FICUs may, and likely will, for legal or other reasons, find it appropriate or necessary to continue collecting customers’ signatures.<sup>23</sup> The changes made by this final rule do not modify or affect any state law

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<sup>23</sup> See, e.g., 12 CFR part 701, appendix A and corresponding state law requirements for federally insured, state-chartered credit unions.

requirements generally applicable to FICUs, including those that necessitate the collection and maintenance of customers' signatures.

Second, this final rule also does not affect the general principles contained in § 745.2 of the NCUA's share insurance regulations applicable in determining insurance of accounts.<sup>24</sup> These general principles applicable in determining insurance of accounts continue to apply to all share accounts, including joint ownership accounts.

Finally, the Board believes it is important to reiterate that the final rule does not introduce any new requirements for an account to be insured as a joint account, and would not reduce or affect insurance coverage for any account for which the existing joint account requirements are satisfied. The final rule simply provides an alternative method to satisfy the existing signature card requirement for share insurance purposes. If each co-owner of a joint account signs, or has previously signed, a membership card or account signature card in accordance with the existing requirement and the FICU can produce it, then the alternative method would be unnecessary. Assuming that the remaining qualifying joint account requirement is satisfied—that is, both co-owners possess equal withdrawal rights—and all other membership requirements are met,<sup>25</sup> the account would be insured as a joint account. The final rule applies to all FICUs and does not impose any increased burden or new recordkeeping requirements for joint accounts.

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<sup>24</sup> 12 CFR 745.2.

<sup>25</sup> With limited exceptions, the FCU Act generally limits NCUA share insurance coverage to “member accounts.” 12 U.S.C. 1752(5). Despite this general limitation, the FCU Act and the NCUA's regulations do allow a nonmember to become a joint owner with a member on a joint account with right of survivorship. 12 U.S.C. 1759(a). The regulations provide that a nonmember's interest in such accounts will be insured in the same manner as the member joint owner's interest. 12 CFR 745.8(e).

### **III. Legal Authority**

The Board has issued this final rule pursuant to its authority under the FCU Act. Under the FCU Act, the NCUA is the chartering and supervisory authority for FCUs and the Federal supervisory authority for FICUs.<sup>26</sup> The FCU Act grants the NCUA a broad mandate to issue regulations governing both FCUs and FICUs. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.<sup>27</sup> Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.<sup>28</sup> Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.<sup>29</sup> Accordingly, the FCU Act grants the Board broad rulemaking authority to ensure that the credit union industry and the NCUSIF remain safe and sound.

### **IV. Discussion of Public Comments Received on the Proposed Rule**

#### *A. The Public Comments, Generally*

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<sup>26</sup> 12 U.S.C. 1752–1775.

<sup>27</sup> 12 U.S.C. 1766(a).

<sup>28</sup> 12 U.S.C. 1787(b)(1).

<sup>29</sup> 12 U.S.C. 1789(a)(11).

The NCUA received 11 comments on the proposed rule. All 11 commenters noted their support for the proposed rule. Rationale commenters offered for supporting the rule included: a belief that the proposed rule would provide increased flexibility and would maximize the opportunity for legitimate joint account holders to receive the proper share insurance coverage; recognition that the proposed rule would facilitate the prompt payment of share insurance in the event of a FICU's failure; and agreement with the proposed rule's assertion that "it is important to maintain parity between the nation's two federal deposit/share insurance programs and to provide credit union members with equal access to insurance coverage." Several commenters also emphasized that the proposed change is especially important given the challenges posed by COVID-19 and the resulting economic uncertainty.

While all 11 commenters supported the proposed rule, commenters did provide a number of suggestions for improving the rule. As discussed more thoroughly below, suggestions for improvement focused on two areas: (1) the type of evidence the NCUA could look to for evidence of co-ownership that would fulfill the signature card requirement; and (2) clarifications regarding the applicability of state law. The NCUA also received comments noting appreciation for the NCUA's longstanding position that the signature requirement may be satisfied electronically, consistent with the E-SIGN Act. Additionally, the NCUA received one comment addressing co-owned revocable trust accounts. Co-owned revocable trust accounts are outside the scope of this rulemaking.

#### *B. Discussion of Specific Comments on the Proposed Rule*

### *1. Examples of Evidence of Joint Account Ownership*

Several commenters asked the NCUA to consider including additional examples of account information that may be used as evidence of co-ownership. One of the commenters suggested two additional possible examples: (1) use of the account via a mobile banking application or online access platform; and (2) a co-owner having agreed to receive electronic statements via their email address. Another of these commenters asked the NCUA to promptly provide additional examples because, while they appreciate the agency not limiting the scope, they felt it would be helpful to provide examples of what information can be used as new technologies are developed and utilized by credit unions.

In asking the NCUA to consider adding additional examples to the text of the regulation or its “Official Staff Commentary,” one commenter suggested that the examples need to more concretely describe the types of evidence that may be used. The commenter expressed concern that the evidence described in the rule itself is somewhat vague and that the examples in the proposed rule’s preamble may be confusing. The commenter said that, for example, the fact that an account holder has a debit card issued for another person’s use (e.g., a parent supplying a card for their child to use) does not establish that the other person is actually a co-owner of the account. The commenter noted that the other party would simply be authorized to access the account, but would not own the funds nor qualify for joint share insurance coverage. Related to this example, the commenter acknowledged that § 745.8(c)(1) states that “the signature requirement does not apply to ... any accounts maintained by an agent,” but felt that this may not be explicit enough to avoid confusion.

The Board disagrees that additional or more concrete examples would be beneficial or are necessary because, contrary to the commenters' intentions, they could be viewed as limiting flexibility. The examples provided in the proposed rule, and adopted in the final rule, are neither intended to be all-inclusive nor dispositive. Instead, they are merely intended to illustrate the types of evidence the NCUA may consider when determining whether an account is co-owned and the signature card requirement in place for coverage as a qualifying joint account satisfied. The change is intended to provide the NCUA with the maximum flexibility possible to evaluate a FICU's account records and properly determine if an account is co-owned. When it is necessary for the NCUA to evaluate alternative evidence to determine if an account is co-owned, the NCUA will holistically evaluate all of the information in a FICU's account records that properly aid it in making this determination. In other words, the NCUA will not look at evidence, like the issuance of a debit card to a minor, as de facto evidence of co-ownership, but will use such evidence to help it accurately determine the actual account ownership.

Relatedly, one commenter suggested revising the text of proposed § 745.8(c)(2) to better reflect the proposed rule's intention, as noted in the preamble, that the examples of evidence of co-ownership were not intended "to define the only form of evidence"<sup>30</sup> that would satisfy the signature requirement. The commenter suggested that, to minimize the opportunity for confusion in the future, the NCUA consider modifying proposed § 745.8(c)(2) by replacing

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<sup>30</sup> 85 FR 34454, 34546 (June 5, 2020).

“such as” with the phrase “including, but not limited to,” before the word “evidence.” The commenter reasoned that this would make clear on the face of the regulation that other evidence in the account records may be sufficient to establish qualifying joint ownership of a share account. As discussed in section II of this preamble, the Board agrees that this language would help to eliminate ambiguity and reflects the intent of the proposed rule. Accordingly, the Board has adopted it in the final rule. Section 745.8(c)(2) will now state that the signature card requirement may be satisfied by information contained in the account records of the federally insured credit union establishing co-ownership of the share account, “including, but not limited to,” evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the share account by each co-owner.

## 2. *Applicability of State Law*

One commenter provided a detailed comment asking the NCUA to add language to the regulation or its “Official Staff Commentary” clearly stating that the proposed change only addresses the evidence that the NCUA may accept to treat an account as joint for share insurance coverage purposes, with no bearing on the legality or enforceability of an account that lacks joint account holders’ signatures on an account agreement. The Board addressed this issue in the preamble to the proposed rule<sup>31</sup> and again reiterates now that the alternative method for

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<sup>31</sup> “The proposed rule only would affect a requirement in the NCUA’s regulations that must be satisfied for a share account to be separately insured as a joint account; it would not affect any other legal requirements applicable to FICUs. FICUs may, *for legal or other reasons, find it appropriate or necessary to continue collecting customers’ signatures*. The changes made by the proposed rule would not modify or affect any state law requirements generally applicable to FICUs.” 85 FR 34454, 34546–47 (June 5, 2020) (emphasis added).



satisfying the signature card requirement adopted in this final rule is only relevant for purposes of determining share insurance coverage. The final rule has no bearing on any other legal requirement that FICUs are subject to, including all applicable state laws. The final rule does not eliminate the need for FICUs to obtain signatures when opening an account, it merely allows the NCUA to use alternative evidence in a FICU's account records to find the signature card requirement for coverage as a qualifying joint account satisfied even if signed membership or account signature cards are absent from a liquidated FICU's records.

In addressing this issue, the commenter acknowledged that the preamble to the proposed rule speaks to this issue,<sup>32</sup> but felt it critical that FICUs understand that the proposed rule: (1) would only impact share insurance coverage; and (2) would not eliminate any requirement under state law or contracts common law related to the need for joint account holders to sign account agreements. The commenter correctly emphasized that the proposed change would not open the door for FICUs to establish accounts without proper, signed agreements in place among all account holders.

The commenter noted that signatures are statutorily required in their state to create a joint account and that, even absent a statutory requirement, the common law calls for contracts to be signed. The commenter stated that without the signatures of all joint account holders to a contract or account agreement, credit unions lack a legal basis for enforcing the account's terms against those account holders. The commenter emphasized that the lack of a legally enforceable,

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<sup>32</sup> *Id.*

signed joint account agreement could lead to credit unions being caught in the middle of potential disputes among parties and their heirs when one or more account holders die.

While the Board again reiterates the alternative method for satisfying the signature card requirement adopted in this final rule is only relevant for purposes of determining share insurance coverage, it declines to add additional language to the text of the regulation explicitly stating that credit unions are still subject to other applicable legal requirements. The Board appreciates the commenter's concern, but does not believe it appropriate or necessary to include such language. The Board believes it is clear in the text of the regulation that the alternative method is only relevant for evaluating whether the signature card requirement is satisfied for purposes of determining proper share insurance coverage. Further, the Board thinks it inappropriate to explicitly state in a regulation that the regulation does not preempt other applicable law or apply to subjects outside the scope of the regulation when there is no indication the provision intends to preempt other laws or apply in other contexts. Inclusion of such language would only increase confusion and raise doubts about provisions that do not contain similar language.

## **VI. Regulatory Procedures**

### *A. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rule, an agency prepare a final regulatory flexibility analysis that describes the impact of a rule on small

entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include FICUs with assets less than \$100 million) and publishes its certification and a short, explanatory statement in the Federal Register together with the rule. The final rule explicitly allows the NCUA to look to information contained in the account records of a FICU in order to satisfy the signature card requirement at the time of a FICU's failure. As a result, it will not cause any increased burden on FICUs and will not have an impact on small credit unions. Accordingly, the NCUA certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions.

#### *B. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates new or amends existing information collection requirements.<sup>33</sup> For the purpose of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The final rule does not contain information collection requirements that require approval by OMB under the PRA.<sup>34</sup> The final rule will merely allow the NCUA to look to information contained in the account records of a FICU in order to satisfy the signature card requirement at the time of a FICU's failure.

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<sup>33</sup> 44 U.S.C. 3507(d); 5 CFR part 1320.

<sup>34</sup> 44 U.S.C. Chap. 35.

### *C. Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

### *D. Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.<sup>35</sup>

### *E. Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) generally provides for congressional review of agency rules. A reporting requirement is triggered in

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<sup>35</sup> Pub. L. 105-277, 112 Stat. 2681 (1998).

instances where the NCUA issues a final rule as defined by section 551 of the Administrative Procedure Act. An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a “major rule.” The NCUA does not believe this rule is a “major rule” within the meaning of the relevant sections of SBREFA. As required by SBREFA, the NCUA will submit this final 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 also will file appropriate reports with Congress and the Government Accountability Office so this rule may be reviewed.

### **List of Subjects**

#### **12 CFR Part 745**

Credit, Credit unions, Share insurance.

By the National Credit Union Administration Board on February 18, 2021.

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Melane Conyers-Ausbrooks

Secretary of the Board

For the reasons discussed in the preamble, the Board amends 12 CFR part 745 as follows:

**PART 745—SHARE INSURANCE AND APPENDIX**

1. The authority citation for part 745 continues to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; title V, Pub. L. 109-351; 120 Stat. 1966.

2. Revise § 745.8(c) to read as follows:

**§ 745.8      Joint ownership accounts**

\*      \*      \*      \*      \*

(c) *Qualifying joint accounts.* (1) A joint account is a qualifying joint account if each of the co-owners has personally signed a membership or account signature card and has a right of withdrawal on the same basis as the other co-owners. The signature requirement does not apply to share certificates, or to any accounts maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons if the records of the credit union properly reflect that the account is so maintained.

(2) The signature card requirement of paragraph (c)(1) of this section also may be satisfied by information contained in the account records of the federally insured credit union establishing

co-ownership of the share account, including, but not limited to, evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the share account by each co-owner.

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