

**7535-01-U**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Parts 741, 748 and 749**

**RIN 3133-AD56**

**Credit Union Reporting**

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

**ACTION:** Final rule.

**SUMMARY:** NCUA is amending its reporting procedures and record retention requirements to conform regulatory provisions to its new, web-based reporting system. The rule incorporates into the regulation a statutory requirement on reporting changes in senior officials resulting from election or appointments and clarifies requirements on when a credit union files reports with NCUA online. The rule also provides alternative reporting methods for credit unions unable to submit online reports.

**DATES:** The rule is effective September 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Amber Gravius, Risk Management Officer, Office of Examination and Insurance, (703) 518–6360; or Moissette Green, Staff Attorney, the Office of General Counsel, (703) 518-6540, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314.

**SUPPLEMENTARY INFORMATION:**

Background

NCUA has replaced the software used to submit financial and other reports with an integrated, web-based information management system. The online system makes reporting more efficient and cost effective, and enhances the accuracy of credit union data. The implementation of the new online system requires revisions to current reporting regulations.

The Federal Credit Union Act (Act) grants NCUA broad authority to require federally-insured credit unions (FICUs), including corporate credit unions, to submit financial data and other information as required by the NCUA Board (Board). 12 U.S.C. 1761, 1766, 1781, and 1782. NCUA has implemented this authority in various regulatory provisions. NCUA requires FICUs to submit financial reports, reports of officials, and other reports. 12 CFR 704.1, 741.6, and 748.1. Section 741.6(a) prescribes the requirements for financial, statistical, and other reports and, currently, requires natural person credit unions to file a Financial and Statistical Report quarterly, also referred to as a Call Report and identified as NCUA Form 5300. The provisions in §741.6 currently do not specify the form corporate credit unions use; corporate credit unions file Call Reports

monthly using NCUA Form 5310. Further, FICUs must file a Report of Officials, NCUA Form 4501, with NCUA annually after the election of officials. 12 CFR 748.1(a). In addition to information about a credit union's main location and branches, hours of operation, and identity of and contact information for senior officials, NCUA Form 4501 also contains a certification of FICU compliance with the requirements of Part 748, which includes catastrophic act reporting, suspicious activity reporting, and security program and Bank Secrecy Act requirements. Id. The front page of the NCUA Form 4501 states the Report of Officials must be filed with the regional director no later than 10 days after the election of officials.

Appendix A to Part 749 sets out guidelines for record retention and identifies key operational records FICUs should retain permanently. 12 CFR Part 749, Appendix A, para. E.2. NCUA Form 5300 or its equivalent is currently identified as an example of these key operational records. Id. at para. E(2)(b).

In March 2009, NCUA proposed revisions to §§741.6 and 748.1, and Appendix A to Part 749 to clarify online reporting procedures and record retention requirements, conform regulatory provisions to the new online system, and incorporate into the regulation a statutory requirement on reporting changes in senior officials. 74 FR 13139 (March 26, 2009).

### Online Reporting Process

NCUA is interested in increasing efficiency, reducing costs, enhancing accuracy of data, and providing a secure, single access portal where credit unions can submit, edit, and view data NCUA collects. The new information management tool allows FICUs to submit financial reports, information regarding officials, and other information to NCUA through a secure, web-based system. Credit unions have access to the online system via the internet from NCUA's website at <http://www.ncua.gov>. For credit unions to use the online system, they must have a computer, internet connectivity, Internet Explorer 6.0 or higher, and a valid email address. All users of the online system must use a login and password to access the system, and credit union users only have access to their own credit union's confidential information. The public may obtain non-confidential information without a login or password.

To ensure information is protected, users identify themselves using an authentication process requiring a unique login and password. Authenticated users may only access the information they are authorized to view. Additionally, the transmission of sensitive information between credit unions and NCUA is encrypted using the industry-standard Secure Sockets Layer (SSL) technology to prevent others from intercepting and accessing confidential, credit union information.

NCUA will no longer issue software to submit data; the online system permits credit unions to submit data to NCUA from any computer. Additionally, the online system eliminates mailing and printing delays, missing information, and damaged software CDs. The online system provides real-time warnings throughout the input process to

ensure data integrity. NCUA is currently implementing the new system for natural person credit unions and anticipates implementing it for corporate credit unions in 2010.

All credit union data will be submitted and viewed through the online Credit Union Profile and Call Report. The online profile includes information NCUA maintains about a credit union that infrequently changes, for example, the credit union address(es), phone number(s), list of officials, hours of operation, etc. It has additional information such as disaster recovery information, and information systems and technology information. After profile data are entered, subsequent input is only required for additions, deletions, or changes to the data.

For efficiency and to make reporting less burdensome, credit unions may have multiple users to enhance the likelihood that profile information is accurate and updated when necessary and ensure the Call Report is submitted timely. Additionally, multiple users may access the system and complete different sections of the Call Report and profile simultaneously. Credit unions unable to use the online system will use a manual process to submit their information on a paper form.

#### Comments on the Proposal

NCUA received comments from one credit union and two trade associations. The credit union supported the proposed changes, but raised concerns about data security. It suggested using electronic tokens or other multi-factor authentication method in conjunction with strong passwords to ensure data submitted through the online system

is not compromised. The credit union also recommended giving credit unions up to 12 months instead of 30 days to update the online Reports of Officials information.

This final rule does not address data security. Credit unions can be sure NCUA will maintain the online system in accordance with federal computer security standards for the management of automated information resources. See Office of Management and Budget Circular No. A-130. Additionally, NCUA will encrypt sensitive information during transmission using industry-standard Secure Sockets Layer (SSL) technology to prevent others from intercepting and accessing confidential, credit union information.

The Board believes 30 days is a reasonable time for FICUs to update changes to the information regarding their officials in the online profile. Under the Act, federal credit unions must file the names and addresses of senior management officials and volunteer officials with NCUA within 10 days after their election or appointment. 12 U.S.C. 1761(b). NCUA needs up-to-date credit union information for many reasons, for example, member complaint resolution, examination completion, and disaster and emergency preparedness. Accordingly, credit unions must ensure their profiles contain accurate information.

One trade association supported the proposed adoption of an internet-based reporting system, but requested NCUA conduct a comprehensive review of the content of the reports credit unions must submit to reduce the reporting burden. Another trade association supported the objective to increase efficiency and ease of reporting

information to NCUA, but expressed concern about the training required for credit union staff to use the new online system. It urged NCUA to allow sufficient time for implementation of the new system and to permit credit unions to make necessary logistical changes and train staff.

The Board expects the online system will reduce the burden on credit unions and make reporting more efficient. NCUA reviewed the information it collects from credit unions during the development of the online system and has reduced the redundancy associated with the various reporting requirements. Information that had previously been reported in multiple forms or reports has been consolidated in the online profile.

To assist credit unions with the transition to the online system, NCUA will host training sessions, including webcasts, workshops, and seminars, throughout summer 2009. Information regarding the training sessions will be posted in the Upcoming Events section of NCUA's website, <http://www.ncua.gov>. Additionally, frequently asked questions are answered on NCUA's website at <http://www.ncua.gov/DataServices/OnlineFAQ.pdf>.

### The Final Rule

NCUA is adopting the amendments to Parts 741, 748, and 749 as proposed without change. Section 741.6 clarifies when FICUs must update their Credit Union Profiles and addresses corporate credit unions and the NCUA Form 5310. Additionally, the rule amends §748.1 to clarify the compliance report filing requirements for FICUs using the

online system and for FICUs filing reports manually. FICUs that cannot certify compliance online must certify compliance in writing on the new Credit Union Profile form, NCUA Form 4501A. Finally, the rule updates the record retention guidelines in Appendix A of Part 749 and includes the new Credit Union Profile form as a key operational record that should be retained permanently.

## **Regulatory Procedures**

### Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small entities. 5 U.S.C. 603(a). For purposes of this analysis, NCUA considers credit unions having under \$10 million in assets as small entities. Interpretive Ruling and Policy Statement 03-2, 68 FR 31949 (May 29, 2003). As of March 31, 2009, out of 7,749 natural person, federally insured credit unions, 3,168 had less than \$10 million in assets. NCUA estimates out of 28 corporate credit unions, one is a small entity. This rule directly affects all small FICUs. Therefore, NCUA has determined this rule will have an impact on a substantial number of small entities.

NCUA has determined, however, the economic impact on entities affected by the rule will not be significant. The rule will reduce the regulatory burden on FICUs that submit their financial reports, Credit Union Profile, and other information online. NCUA is also proposing alternate methods for FICUs without internet access to submit information. Additionally, NCUA's Office of Small Credit Union Initiatives has reviewed the rule and



concluded it would have a moderate impact on small credit unions, but contained sufficient provisions to mitigate the impact and would result in greater efficiencies for all credit unions. Further, NCUA invited comment on the economic impact the rule would have in its proposal and requested suggestions on how to minimize it. 74 FR 13139, 13141 (March 26, 2009). The Board received no comments on this issue. Accordingly, NCUA certifies the rule would not have a significant economic impact on small entities.

#### Paperwork Reduction Act

In accordance with section 3512 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3521 (PRA), NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. NCUA submitted the information collection requirements in this rule to OMB for review and approval under section 3507 of the PRA and §1320.11 of OMB's implementing regulations. 5 CFR 1320.11. The proposed rule contained a discussion of the revised information collection. 74 FR 13139, 13141 (March 26, 2009). OMB approval is pending.

#### Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, Pub. L. 104-121, provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of

Information and Regulatory Affairs, an office within OMB, is reviewing this final rule for purposes of SBREFA, and a determination is pending.

#### 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, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The rule would 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. NCUA has determined this rule does not constitute a policy that has federalism implications for purposes of the executive order.

#### The Treasury and General Government Appropriations Act, 1999 – Assessment of Federal Regulations and Policies on Families

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

#### **List of Subjects**

##### **12 CFR Part 741**

Credit unions, Reporting and recordkeeping requirements, Share insurance

##### **12 CFR Part 748**

Credit unions, Reporting and recordkeeping requirements, Security measures

**12 CFR Part 749**

Archives and records, Credit unions, Reporting and recordkeeping requirements

By the National Credit Union Administration Board, on July 16, 2009.

---

Mary F. Rupp

Secretary of the Board

For the reasons stated above, NCUA amends 12 CFR parts 741, 748 and 749 as follows:

**PART 741 — REQUIREMENTS FOR INSURANCE**

1. The authority for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766(a), 1781-1790, and 1790d; 31 U.S.C. 3717.

2. Amend § 741.6 by removing paragraph (d) and revising paragraph (a) to read as follows:

**§741.6 [Amended]**

(a) Upon written notice from the Board, Regional Director, or Director of the Office of Corporate Credit Unions, insured credit unions must file financial and other reports in accordance with the instructions in the notice. Credit unions with the capacity

to do so must use NCUA's information management system to submit their data online. If a credit union is unable to use the information system, it must file written reports in accordance with the instructions.

(1) Credit Union Profile. Insured credit unions must submit to NCUA a Credit Union Profile, NCUA Form 4501 or its equivalent, within 10 days after an election or appointment of senior management or volunteer officials or within 30 days of any change of the information in the profile.

(2) Financial and statistical report. Natural person credit unions must file a Call Report with NCUA quarterly in accordance with the instructions in the NCUA Form 5300. Corporate credit unions must file a Corporate Credit Union Call Report with NCUA monthly in accordance with the instructions in the NCUA Form 5310. Credit unions must submit a corrected Call Report upon notification or the discovery of a need for correction.

\* \* \* \* \*

**PART 748 — SECURITY PROGRAM, REPORT OF SUSPECTED CRIMES,  
SUSPICIOUS TRANSACTIONS, CATASTROPHIC ACTS AND BANK SECRECY ACT  
COMPLIANCE**

3. The authority for part 748 continues to read as follows:

**Authority:** 12 U.S.C. 1766(a), 1786(q); 15 U.S.C. 6801 and 6805(b); 31 U.S.C. 5311 and 5318.

4. Amend § 748.1 by revising paragraph (a) to read as follows:

**§ 748.1 [Amended].**

(a) The president or managing official of each federally-insured credit union must certify compliance with the requirements of this Part in its Credit Union Profile annually. Credit unions that cannot update their profile online must certify compliance in writing in accordance with the instructions on NCUA Form 4501 or its equivalent. The credit union president or managing official must sign and date the written certification.

\* \* \* \* \*

**PART 749 — RECORDS PRESERVATION PROGRAM AND APENDICES – RECORD RETENTION GUIDELINES; CATASTROPHIC ACT PREPAREDNESS GUIDELINES**

5. The authority for part 749 continues to read as follows:

**Authority:** 12 U.S.C. 1766, 1783, and 1789; 15 U.S.C. 7001(d).

6. Amend Appendix A to Part 749 by revising paragraph E.2.(b) to read as follows:

**Appendix A to Part 749 [Amended].**

\* \* \* \* \*

E. \* \* \*

2. \* \* \*

(b) One copy of each financial report, NCUA Form 5300 or 5310, or their equivalent, and the Credit Union Profile report, NCUA Form 4501, or its equivalent as submitted to NCUA at the end of each quarter.

\* \* \*

\* \* \* \* \*