

those with total assets of less than \$10 million, must be uniform and consistent with generally accepted accounting principles (GAAP). 12 U.S.C.

1782a(a)(6)(C). NCUA proposed to revise part 703 to clarify that FCUs having total assets of \$10 million or more must comply with all GAAP provisions related to the accounting principles applicable to reports or statements required to be filed with NCUA, not just selected ones. While not mandatory for FCUs with total assets of less than \$10 million, NCUA encourages them also to comply with GAAP or to account for their investments consistent with the NCUA Accounting Manual for Federal Credit Unions, which can be found on the NCUA website. No commenters objected. NCUA adopts this amendment.

#### 8. Net Worth

To be consistent with changes in the Act and NCUA's rules, NCUA proposed to replace the term "net capital" with "net worth." No commenter objected to this change. NCUA adopts it in the final rule.

#### 9. Format

The proposal changed the question and answer format to a more traditional format to make the rule easier to read and more conducive to finding information quickly. Many commenters supported this amendment and no commenters objected to it. NCUA adopts it in the final rule.

#### 10. State-Chartered Credit Unions

One commenter noted that State-chartered credit unions that make investments that are impermissible for FCUs must reserve for those non-conforming investments. 12 CFR 741.3. The commenter questioned whether State-chartered credit unions need to reserve for non-conforming investments that are permissible for RegFlex eligible FCUs. NCUA believes that, if a State-chartered credit union meets all the criteria for RegFlex eligibility as detailed in § 742.2, then it is not required to reserve for non-conforming investments that are permissible for RegFlex eligible FCUs. 12 CFR 742.2. If at any time a State-chartered credit union fails to meet the RegFlex eligibility criteria, then it must reserve for any non-conforming investments it owns.

Another commenter urged NCUA to revise proposed § 703.1, the purpose and scope section, to clarify that State-chartered credit unions, in addition to complying with the reserve requirement for non-conforming investments in § 741.3, must also comply with the

requirements of part 703 concerning transacting business with corporate credit unions, as provided in § 741.219. 12 CFR 741.219. NCUA believes it will be helpful to include this reference in the purpose and scope section and is including it in the final rule as a technical correction.

#### 11. Other Technical Corrections

Proposed § 703.16(a) incorrectly references § 703.14(h). The correct and intended reference, reflected in the final rule, is to § 703.14(g).

Proposed § 703.3(g) stated that only "those individuals with investment authority may be voting members of an investment-related committee." (Emphasis added.) The former version of the rule requires that only "officials and employees of the Federal credit union may be voting members of an investment-related committee." (Emphasis added.) This was an unintended change in language. NCUA received no comment on this but wishes to clarify that the prior language in part 703 remains unchanged as intended by the proposal.

### Regulatory Procedures

#### Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under \$1 million in assets). This rule clarifies the investment authority granted to FCUs and conforms the Regulatory Flexibility Program to the investment rule. The final amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

#### Paperwork Reduction Act

The current Office of Management and Budget control number assigned to part 703 is 3133-0133. NCUA has determined that the final rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

#### 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 final rule would not have substantial direct effects 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 that this final 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 final 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).

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

The Small Business Regulatory Enforcement Act 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 Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

### List of Subjects

#### 12 CFR part 703

Credit unions, Investments.

#### 12 CFR part 742

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on May 22, 2003.

**Becky Baker,**  
Secretary of the Board.

■ Accordingly, NCUA amends 12 CFR parts 703 and 742 as follows:

### **PART 703—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS**

■ 1. The authority citation for part 703 continues to read as follows:

**Authority:** 12 U.S.C. 1757(7), 1757(8), 1757(15).

■ 2. Revise part 703 to read as follows:

### **PART 703—INVESTMENT AND DEPOSIT ACTIVITIES**

Sec.  
703.1 Purpose and scope.  
703.2 Definitions.  
703.3 Investment policies.