

regulatory burden. Of course, reducing regulatory burden must be consistent with ensuring the continued safety and soundness of federally-insured credit unions and appropriate consumer protections.

EGRPRA also recognizes that burden reduction must be consistent with NCUA's statutory mandates, many of which currently require certain regulations. One of the significant aspects of the EGRPRA review program is the recognition that effective burden reduction in certain areas may require legislative change. NCUA will be soliciting comment on, and reviewing the comments and regulations carefully for, the relationship among burden reduction, regulatory requirements and statutory mandates. This will be a key aspect of the report back to Congress.<sup>1</sup>

The combination of considering the relationship of regulatory and statutory change on regulatory burden with the section 2222 requirement for grouping regulations by type provides the possibility for particularly effective burden reduction. It may be possible to identify statutes and regulations that share similar goals or complementary methods of compliance monitoring such that the compliance requirements could be combined and overlapping requirements could be eliminated. For example, it may be possible to combine certain types of applications to eliminate duplication.

The EGRPRA review can also significantly contribute to the NCUA's on-going efforts to reduce regulatory burden. For example, since 1987, a formally adopted NCUA policy has required the Board to review each of its regulations at least once every three years with a view toward eliminating, simplifying, or otherwise easing the burden of each regulation.<sup>2</sup>

Further, NCUA addresses the issue of regulatory burden every time it proposes and adopts a rule. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and internal agency policies, NCUA examines each

rulemaking to minimize the burdens it might impose on the industry and considers various alternatives.

NCUA will use both the EGRPRA review and its individual reviews to identify and reduce burdens on "small" institutions. More than half of federally-insured credit unions are small—having \$10 million in assets or less—as defined by NCUA in IRPS 03–2. We are particularly concerned about burden on small institutions. When a new regulation is created or an old regulation is changed, small credit unions must devote a large percentage of their staffs' time to review the regulation to determine if and how it will affect them. Compliance with a regulation also can take large amounts of time that cannot be devoted to servicing members or business planning. In a large credit union, ensuring regulatory compliance can take many more hours; however, those hours make up a much smaller percentage of the credit union's resources. In situations where a regulation is aimed at an activity engaged in primarily by large credit unions, the compliance burden on small credit unions can outweigh its benefit.

### III. NCUA's Proposed Plan

NCUA must categorize its regulations by "type." Section 2222 gives it authority to determine categories, and suggests two possible categories: "consumer regulations" and "safety and soundness." NCUA has regulations on more than 25 subjects covering a wide variety of areas from capital maintenance to the privacy of consumer financial information. A few of these regulations have been issued jointly with the other Agencies and are as uniform as possible. The majority of NCUA's regulations are issued independently by NCUA and apply only to federally-insured credit unions.

NCUA proposes to seek comments on 10 categories of its regulations which impose burden on federally-insured credit unions, including regulations that apply only to federal credit unions, between now and 2006.<sup>3</sup> The categories, in alphabetical order, are: Agency Programs; Applications and Reporting; Capital; Consumer Protection; Corporate Credit Unions; Directors, Officers and Employees; Money Laundering; Powers and Activities; Rules of Procedure and Safety and Soundness. NCUA believes that these categories are logical groupings that are not so broad such

that the number of regulations presented in any one category would overwhelm potential commenters.

The categories also reflect recognized areas of industry interest and specialization or are particularly critical to the health of the credit union system. NCUA recognizes that its regulations could be categorized in other ways and welcomes recommendations about the categories and the regulations placed within them. The Board notes that some regulations, such as lending, pertain to more than one category and are included in all applicable categories.

Joint publication is not required by section 2222. NCUA believes that publishing its rules for public comment separately from the Agencies is the most effective method for achieving EGRPRA's burden reduction goals for federally-insured credit unions. The credit union system is quite different than the banking system. For example, credit unions deal with issues such as membership, credit union service organizations (CUSOs), and corporate credit unions, which are unique to credit union operations. The Agencies have listed four categories: Banking operations; community reinvestment; international operations; and securities, which have limited or no applicability in the credit union system. NCUA has included two categories, agency programs and corporate credit unions, which have no applicability in the banking system. Because of these obvious differences, NCUA is publishing its notices separately but maintaining comparability with the Agencies' notices to the extent the issues are the same. NCUA is publishing two categories of rules for burden reduction comment with this notice and plans to publish the remaining eight categories in roughly semiannual intervals, with 90-day comment periods for categories under review, through September 2006. NCUA welcomes recommendations on grouping the remaining categories and the order in which to publish them.

After the conclusion of the comment period for each EGRPRA review notice published in the **Federal Register**, NCUA will review the comments it has received and decide whether further action is appropriate with respect to the categories of regulations included in that notice. In the case of rules that NCUA has issued jointly with the Agencies, NCUA will make that decision jointly with the Agencies. Any rulemaking to amend or revise those rules would similarly be undertaken jointly and will provide the public with an opportunity to comment on any

<sup>1</sup> Credit unions are also subject to regulations issued by other non-banking agencies, such as rules issued by the Department of Housing and Urban Development (under Real Estate Settlement Procedures Act of 1974) and by the Department of the Treasury (under the Bank Secrecy Act including rules required by the USA Patriot Act). The rules of these other agencies are beyond the scope of the EGRPRA review and the NCUA's jurisdiction. To the extent the NCUA receives comments raising significant issues regarding these related rules, however, it intends to identify the issues in the Report to Congress and will also notify the related agencies of the substance of the relevant comments.

<sup>2</sup> Interpretive Ruling and Policy Statement (IRPS) 87–2, 52 FR 35231 (September 8, 1987) as amended by IRPS 03–2, 68 FR 32127 (May 29, 2003).

<sup>3</sup> Consistent with section 2222's focus on reducing burden on insured institutions, NCUA will not publish its internal organizational and operational regulations to the extent that those regulations impose no, or minimal, burden on insured credit unions.