

proposed rule which was concurrently published with the direct final rule.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** On August 19, 2003 (68 FR 49683), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72.214 to revise the Transnuclear, Inc. (TN) Standardized NUHOMS®-24P, -52B, and -61BT cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 5 to the Certificate of Compliance. Amendment No. 5 would have modified the present cask system design to add another dry shielded canister (DSC), designated NUHOMS®-32PT DSC, to the authorized contents of the Standardized NUHOMS®-24P, -52B, and -61BT cask system. This canister is designed to accommodate 32 pressurized water reactor assemblies with or without Burnable Poison Rod assemblies. It is designed for use with the existing NUHOMS® Horizontal Storage Module and NUHOMS® Transfer Cask under a general license. The direct final rule was to become effective on November 3, 2003. The NRC also concurrently published an identical proposed rule on August 19, 2003 (68 FR 49726).

In the August 19, 2003, direct final rule, NRC stated that if any significant adverse comments were received, a timely notice of withdrawal of the direct final rule would be published in the **Federal Register**. As a result, the direct final rule would not take effect.

The NRC received significant adverse comment on the direct final rule; therefore, the NRC is withdrawing the direct final rule. As stated in the August 19, 2003, direct final rule, NRC will address the comments received on the August 19, 2003, companion proposed rule in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Dated at Rockville, Maryland, this 21st day of October, 2003.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

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**NATIONAL CREDIT UNION  
ADMINISTRATION**

**12 CFR Part 709**

**Interpretive Ruling and Policy  
Statement No. 03-3; Qualified  
Financial Contracts**

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

**ACTION:** Notice of interpretive ruling and policy statement No. 03-3.

**SUMMARY:** Interpretive Ruling and Policy Statement (IRPS) No. 03-3 provides guidance on NCUA's treatment of qualified financial contracts (QFCs) and federal funds (fed funds) transactions if NCUA becomes liquidating agent or conservator of a credit union. The guidance covers the timing, form, authority, and maintenance of written agreements documenting QFC and fed funds transactions.

**DATES:** This IRPS will become effective October 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Program Officer, Office of Examination and Insurance, at (703) 518-6360; or Paul Peterson, Staff Attorney, Office of General Counsel, at (703) 518-6540.

**SUPPLEMENTARY INFORMATION:** Qualified financial contracts are defined by the Federal Credit Union Act (Act) as any securities contract, forward contract, repurchase agreement, and any similar agreement the NCUA Board (Board) determines by regulation. 12 U.S.C. 1787(c)(8)(D). The Board designated swap agreements (swaps) as QFCs effective June 30, 2003. 68 FR 32355 (May 30, 2003).

The Act provides that any agreement purporting to form the basis of a claim against the liquidating agent or the NCUA Board must be in writing and executed contemporaneously with the acquisition of the asset by the credit union, be approved by the credit union's board, and be maintained continuously as an official record of the credit union. 12 U.S.C. 1787(b)(9), 1788(a)(3). Standard market practices for the creation and documentation of QFC and federal funds (fed funds) transactions, however, are often relatively informal. Representatives of potential QFC and fed funds counterparties have expressed concern to NCUA about how it might interpret the Act's formality requirements in the event of a credit union liquidation or conservatorship.

The Federal Deposit Insurance Corporation (FDIC) has previously adopted policy guidance that addresses counterparty concerns about similar

formality provisions in the Federal Deposit Insurance Act applicable to bank transactions. FDIC Statement of Policy on Qualified Financial Contracts, December 12, 1989, at <http://www.fdic.gov/regulations/laws/rules/5000-1100.html>. This IRPS adopts a similar policy on the formality provisions in the Federal Credit Union Act as applied to credit union transactions.

**Interpretive Ruling and Policy  
Statement No. 03-3—Qualified  
Financial Contracts**

This Interpretive Ruling and Policy Statement ("IRPS") provides guidance to the financial markets with regard to the treatment of qualified financial contracts (QFCs) in the event NCUA is appointed liquidating agent or conservator of a credit union. The guidance covers the timing, form, authority, and maintenance of written agreements documenting QFCs and provides a safe harbor for bona fide transactions between credit unions and nonaffiliated counterparties. For purposes of the requirements set out in sections 207(b)(9) and 208(a)(3) of the Federal Credit Union Act (the Act), the Board intends that this policy statement apply to federal funds (fed funds) transactions as well as QFCs. 12 U.S.C. 1787(b)(9) and 1788(a)(3).

The NCUA Board specifically intends that counterparties to QFCs and fed funds transactions may rely on this policy statement. The NCUA Board does not, however, intend to provide in this policy statement any indication or guidance of the treatment by a liquidating agent or conservator of any other type of contract other than fed funds or those specifically defined as QFCs in the Act or by the Board pursuant to the Act. Also, nothing in this policy statement is intended to apply to transactions between a credit union and a counterparty that is an affiliate of the credit union.

This policy statement will be effective unless revoked or otherwise withdrawn upon 45 days notice provided in the **Federal Register**. Any such revocation or withdrawal will only operate prospectively.

**Written Agreement Requirements**

Any QFC (including any ancillary agreements, such as a master agreement or security arrangements) that complies with the following criteria will be deemed to satisfy the requirements in sections 207(b)(9) and 208(a)(3) of the Act. 12 U.S.C. 1787(b)(9) and 1788(a)(3).

1. The QFC is evidenced by a writing (including a confirmation) that either is sent by the credit union to the