

These proposals augment existing requirements and guidance regarding the security of member records previously adopted pursuant to Section 501 of the GLBA. Section 501 requires the Agencies to publish standards for financial institutions relating to administrative, technical, and physical standards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer. The reasons for NCUA's actions are further described in the Supplementary Information section.

#### B. Statement of Objectives and Legal Basis

The **SUPPLEMENTARY INFORMATION** section above contains this information. The legal basis for the proposed rule is the GLBA.

#### C. Estimate of Small Credit Unions to Which the Rule Applies

The proposed rule would apply to all federally insured credit unions. Small credit unions are defined by NCUA as those with less than \$10,000,000 in assets of which there are approximately 4,646. Interpretive Ruling and Policy Statement (IRPS) 87-2, Developing and Reviewing Government Regulations, 52 FR 35231 (Sep. 18, 1987), as amended by IRPS 03-2 68 FR 31949 (May 29, 2003).

#### D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The information collection requirements imposed by the proposed rule are discussed above in the section on the Paperwork Reduction Act.

#### E. General Requirements

Credit unions are already required under the GLBA and § 748.0 of NCUA's Rules and Regulations to develop an information security program to safeguard member information. Development of such a program involves assessing risks to member information, establishing policies, procedures, and training to control risks, testing the program's effectiveness, and managing and monitoring service providers. This proposed rule would require that the information security program contain an element that is designed to respond to incidents involving breach of information integrity. The NCUA believes that the establishment of information security programs is a

sound business practice for a credit union and is already addressed by existing supervisory procedures. However, the proposed rule may require some credit unions to enhance existing information security programs, but the cost of doing so is not known. The NCUA seeks any information or comment on the costs of enhancing existing information security programs.

#### F. Identification of Duplicative, Overlapping, or Conflicting Federal Rules

The NCUA is unable to identify any statutes or rules which would overlap or conflict with the requirement to assure that existing information security programs contain a response element relating to breaches of information integrity. The NCUA seeks comment and information about any such statutes or rules, as well as any other state, local, or industry rules or policies that require a credit union to implement business practices that would comply with the requirements of the proposed rule.

#### G. Discussion of Significant Alternatives

As previously noted, credit unions are already required by GLBA and existing regulation to develop and implement a meaningful security program. The proposed rule would require that such security programs include a provision for appropriate responses to incidents involving a breach of information integrity. Consistent with the position taken by the other Agencies, the NCUA views this as a fundamental element of any information security program. However, the proposed rule also provides substantial flexibility so that any credit union, regardless of size, may adopt an information security program tailored to its individual needs. The NCUA welcomes comment on any significant alternatives, consistent with the GLBA that would minimize the impact on small credit unions.

#### 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 proposed 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 proposed 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*

The NCUA has determined that this proposed 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).

#### Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive.

#### List of Subjects in 12 CFR Part 748

Credit unions, Crime, Currency, Reporting and recordkeeping requirements, Security measures.

By the National Credit Union Administration Board on October 23, 2003.

**Becky Baker,**

*Secretary of the Board.*

For reasons set forth in the preamble, the NCUA Board proposes to amend 12 CFR 748 as follows:

#### **PART 748—SECURITY PROGRAM, REPORT OF CRIME AND CATASTROPHIC ACT AND BANK SECRECY ACT COMPLIANCE**

1. The authority citation 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.

2. In § 748.0 revise paragraph (b) to read as follows:

#### **§ 748.0 Security program.**

\* \* \* \* \*

(b) The security program will be designed to:

(1) Protect each credit union office from robberies, burglaries, larcenies, and embezzlement;

(2) Ensure the security and confidentiality of member records, protect against the anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member;

(3) Respond to incidents of unauthorized access to or use of member information that could result in substantial harm or serious inconvenience to a member;