

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 741 and 748

RIN 3313-AE25

Filing financial and other reports.

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Rule.

SUMMARY: The NCUA Board (Board) proposes to amend its regulations regarding filing financial, statistical, and other reports and credit union profiles by requiring all federally-insured credit unions (FICU) to file this information electronically using NCUA's information management system or other electronic means specified by NCUA. Under the current rule, FICUs are required to file this information online only if they have the capacity to do so.

DATES: NCUA is issuing this proposal with a 30-day comment period instead of its typical 60-day time frame. NCUA believes the proposal is simple, and 30 days is sufficient for the public

to digest and comment on the proposal. Comments must be received on or before [INSERT DATE THAT IS 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments by any of the following methods (**Please send comments by one method only**):

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- NCUA Web Site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html. Follow the instructions for submitting comments.
- E-mail: Address to regcomments@ncua.gov. Include “[Your name] Comments on Notice of Proposed Rulemaking for Parts 741 and 748, Filing financial and other reports” in the e-mail subject line.
- Fax: (703) 518-6319. Use the subject line described above for e-mail.
- Mail: Address to Mary F. Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.
- Hand Delivery/Courier: Same as mail address.

PUBLIC INSPECTION: You may view all public comments on NCUA’s website at <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx> as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information

from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518-6546 or send an e-mail to OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Associate General Counsel or Sarah Chung, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-1178 or Mark Vaughan, Director, Division of Analytics and Surveillance, Office of Examination and Insurance, at the above address or telephone (703) 518-6360.

SUPPLEMENTARY INFORMATION:

I. Background

II. Summary of the Proposed Rule

III. Regulatory Procedures

I. Background

A. What are the current requirements for filing reports?

The Federal Credit Union Act (Act) provides NCUA with broad authority to require FICUs, including corporate credit unions, to submit financial data and other information as required by

the Board.¹ The Act directs each FICU to make reports of condition to the Board on dates selected by the Board.² The Board has broad discretion to set the conditions and information requirements for such reports.³ More specifically, NCUA requires FICUs to submit financial reports, reports of officials, credit union profiles, and other reports.⁴

Section 741.6(a) of NCUA's regulations requires FICUs to file financial, statistical, and other reports, including call reports. Section 748.1 of NCUA's regulations requires the president or managing official of each FICU to certify compliance with a variety of requirements in its credit union profile.

Under NCUA's current regulations, a FICU must use NCUA's information management system, or other electronic means specified by NCUA, to submit its reportable data online, unless it is unable to do so.⁵ In this case, a FICU must file written reports in accordance with NCUA instructions.

B. How many FICUs file manually?

As of March 31, 2013, 59 of 6,753 FICUs filed manually. The largest of these credit unions had \$21 million in assets, and 45 of them had fewer than \$2 million in assets. The overwhelming majority of these manual filers are federal credit unions. Approximately one quarter of manual

¹ 12 U.S.C. 1756, 1766, 1781, and 1782.

² *Id.*

³ *Id.*

⁴ 12 CFR 741.6 and 748.1.

⁵ *Id.* Currently, corporate credit unions use an electronic system for submitting data online different from the system used by natural person FICUs.

filers report having email and internet access and appear to have the capacity to file reports and profiles electronically. NCUA recently completed an initiative to provide free laptops and technical assistance to manual filers. This initiative helped some FICUs transition to online filing.

II. Summary of the Proposed Rule

A. Why is NCUA proposing this rule?

Executive Order 13579 provides that independent agencies, including NCUA, should consider if they can modify, streamline, expand, or repeal existing rules to make their programs more effective and less burdensome. NCUA seeks to reduce operating costs and promote environmentally responsible practices. NCUA estimates it costs the agency \$125 per filer per quarter to process manual filings of call reports alone. NCUA proposes to require all FICUs to submit call reports and other data and to update their credit union profiles online to reduce the expense of printing and mailing paper forms and other processing costs. Filing manually will no longer be an option.

Additionally, NCUA intends to increase efficiency, enhance accuracy of data, and provide a secure access portal that is the sole means for FICUs to submit, edit, and view data NCUA collects. Online reporting is more efficient and cost effective and enhances the accuracy of credit union data. In addition, it permits FICUs to submit data securely to NCUA from any computer with internet access. This system eliminates mailing and printing delays and missing

information, and provides real-time warnings throughout the input process to ensure data integrity.

B. Does the proposed rule create any new burdens for FICUs?

NCUA believes that once manual filers embrace online filing, they will find it is quicker and easier than their current practices, and it will reduce their administrative burden. The proposal does not create any new regulatory burdens for FICUs, and NCUA expects that electronic filing of reports and profiles will improve a FICU's efficiency and reduce delays.

To assist FICUs making this transition, NCUA already provides instructions on how to report online and has posted a "frequently asked questions" section on NCUA's Web site.

III. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.⁶ For purposes of this analysis, NCUA considers small credit unions to be those having under \$50 million in assets.⁷ This rule would affect relatively few FICUs and the associated cost is minimal.

⁶ 5 U.S.C. 603(a).

⁷ Interpretive Ruling and Policy Statement 03-2, 68 FR 31949 (May 29, 2003), as amended by Interpretive Ruling and Policy Statement 13-1, 78 FR 4032 (Jan. 18, 2013).

Accordingly, NCUA certifies the rule will not have a significant economic impact on small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.⁸ For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. This proposed rule requires the same information previously required in a different format, which NCUA believes should require the same or less amount of time to produce. This proposed rule will not create new paperwork burdens or modify any existing paperwork burdens.

C. 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. This rule will 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.

⁸ 44 U.S.C. 3507(d); 5 CFR part 1320.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 741

Credit, Credit unions, Reporting and recordkeeping requirements, Share insurance.

12 CFR Part 748

Credit unions, Reporting and recordkeeping requirements, Security measures.

By the National Credit Union Administration Board on July 25, 2013.

Mary F. Rupp

Secretary of the Board

For the reasons stated above, NCUA proposes to amend 12 CFR parts 741 and 748 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(a) to read as follows:

§ 741.6 Financial and statistical and other reports.

Upon written notice from the Board, Regional Director, Director of the Office of Examination and Insurance, or Director of the Office of National Examinations and Supervision, insured credit unions must file financial and other reports in accordance with the instructions in the notice. Insured credit unions must use NCUA's information management system, or other electronic means specified by NCUA, to submit their data online.

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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. 6801-6809; 31 U.S.C. 5311 and 5318.

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

§ 748.1 Filing of reports.

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 through NCUA's online information management system.

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