

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

#### Organization and Operations of Federal Credit Unions

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

**ACTION:** Reopening of comment period.

**SUMMARY:** On September 25, 2002, NCUA published for public comment a proposed rule amending § 701.19. 67 FR 60184 (September 25, 2002). The revisions to § 701.19 clarify the scope of the rule and the investments FCUs may use to fund employee benefits. The comment period for this proposed rule was due to have expired on November 25, 2002. Two interested parties have requested an extension of the comment period to respond. In view of this request and NCUA's desire to foster public participation in the rulemaking process, the NCUA Board is reopening the comment period to December 26, 2002.

**DATES:** Comments must be received on or before December 26, 2002.

**ADDRESSES:** Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. You are encouraged to fax comments to (703) 518-6319 or email comments to [regcomments@ncua.gov](mailto:regcomments@ncua.gov) instead of mailing or hand-delivering them. Whatever method you choose, please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518-6540.

By the National Credit Union Administration Board on November 21, 2002.

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

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## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 702

#### Prompt Corrective Action; Net Worth Restoration Plans

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to Congressional mandate, the National Credit Union Administration (NCUA) established a system of prompt corrective action consisting of statutory minimum capital standards for federally-insured credit unions and corresponding remedies to restore net worth. Among the remedies mandated by statute is the requirement to submit a net worth restoration plan for approval by NCUA. NCUA requests public comment on a proposal to allow approval of an abbreviated net worth restoration plan for qualifying credit unions whose net worth ratio has declined marginally below 6 percent because growth in assets outpaces growth in net worth.

**DATES:** Comments must be received on or before January 28, 2003.

**ADDRESSES:** Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. You are encouraged to fax comments to (703) 518-6319 or e-mail comments to [regcomments@ncua.gov](mailto:regcomments@ncua.gov) instead of hand-delivering them. Whichever method you choose, please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Legal: Steven W. Widerman, Trial Attorney, Office of General Counsel, at the above address or by telephone: 703/518-6557. Technical: Jon Flagg, Loss/Risk Analysis Officer, Office of Examination and Insurance, at the above address or by telephone: 703/518-6378.

**SUPPLEMENTARY INFORMATION:** Except where noted, citations to part 702 in this rule refer to 12 CFR 702 *et seq.*, as amended by the NCUA Board in a final rule found elsewhere in this volume of the **Federal Register**. Citations to part 702 are abbreviated to the section number only.

## A. Background

### 1. Development of Part 702

In 1998, the Credit Union Membership Access Act ("CUMAA"), Pub. L. No. 105-219, 112 Stat. 913 (1998), amended the Federal Credit Union Act to require NCUA to adopt by regulation a system of "prompt corrective action" ("PCA") consisting of minimum capital standards and corresponding remedies to improve the net worth of federally-insured "natural person" credit unions. 12 U.S.C. 1790d *et seq.*

In 2000, the NCUA Board adopted part 702 and subpart L of part 747, establishing a comprehensive system of PCA. 12 CFR 702 *et seq.* Part 702 combines mandatory supervisory actions prescribed by statute with discretionary supervisory actions developed by NCUA, all indexed to five statutory net worth categories. 65 FR 8560 (Feb. 18, 2000). A risk-based net worth ("RBNW") component was subsequently integrated into part 702. 65 FR 44950 (July 20, 2000). Subpart L of part 747 established an independent review process allowing affected credit unions and officials to challenge PCA decisions. 12 CFR 747.2001 *et seq.* (2000). Part 702 and subpart L of part 747 took effect August 7, 2000, and first applied to activity in the fourth quarter of 2000. The RBNW component took effect January 1, 2001, and first applied (for quarterly Call Report filers) to activity in the first quarter of 2001.

Since it was first adopted, part 702 has been amended three times. First, to incorporate limited technical corrections. 65 FR 55439 (Sept. 14, 2000). Second, to delete sections made obsolete by adoption of a uniform quarterly schedule for filing Call Reports. 67 FR 12459 (March 19, 2002). And finally, in a final rule adopted today, to incorporate a series of revisions and adjustments designed to improve and simplify the implementation of PCA. That final rule appears elsewhere in this volume of the **Federal Register** and is effective January 1, 2003.

### 2. Request for Comments

The concept of an abbreviated net worth restoration plan ("NWRP") was first raised in the proposed rule that preceded the final rule that the NCUA Board has adopted today. 67 FR 38431 (June 4, 2002). While no specific