

## BOARD ACTION MEMORANDUM

**TO:** NCUA Board

**DATE:** November 22, 2016

**FROM:** Office of Examination and Insurance and  
Office of General Counsel

**SUBJ:** Final Rule – FCU  
Occupancy, Planning, and Disposal  
of Acquired and Abandoned  
Premises; Incidental Powers

**ACTION REQUESTED:** Board approval to issue the attached final rule.

**DATE ACTION REQUESTED:** December 15, 2016.

**OTHER OFFICES CONSULTED:** N/A.

**VIEWS OF OTHER OFFICES CONSULTED:** N/A.

**BUDGET IMPACT, IF ANY:** None.

**SUBMITTED TO INSPECTOR GENERAL FOR REVIEW:** Yes.

**RESPONSIBLE STAFF MEMBERS:** D. Scott Neat, Director, Division of Supervision; Jacob McCall, Program Officer, Office of Examination and Insurance; and Justin Anderson, Senior Staff Attorney, Office of General Counsel.

**SUMMARY:** The final rule amends NCUA’s regulation governing federal credit union (FCU) occupancy, planning, and disposal of acquired and abandoned premises, and its regulation regarding incidental powers. To provide regulatory relief to FCUs, the final rule eliminates a requirement in the current occupancy rule (formerly referred to as the fixed assets rule) that an FCU must plan for, and eventually achieve, full occupancy of acquired premises.

The final rule generally retains the current regulatory timeframes for partial occupancy. However, it modifies the definition of “partially occupy” to mean occupation and use, on a full-time basis, of at least fifty percent of the premises by the FCU, or by a combination of the FCU and a credit union service organization (CUSO) in which the FCU has a controlling interest in accordance with Generally Accepted Accounting Principles. CUSOs must use the space primarily to support the FCU or to serve the FCU’s members.

The final rule also amends the excess capacity provision in NCUA’s incidental powers rule to clarify that an FCU may lease or sell excess capacity in its facilities, but it need not anticipate

that such excess capacity will be fully occupied by the FCU in the future. However, the sale or lease of excess capacity in equipment or services, including employee-sharing and data processing for third parties, continues to be limited to circumstances where an FCU reasonably anticipates that such excess capacity will be taken up by the future expansion of services to members.

**RECOMMENDED ACTION:** Board approval of the attached final rule.

**ATTACHMENT:** Final rule.