



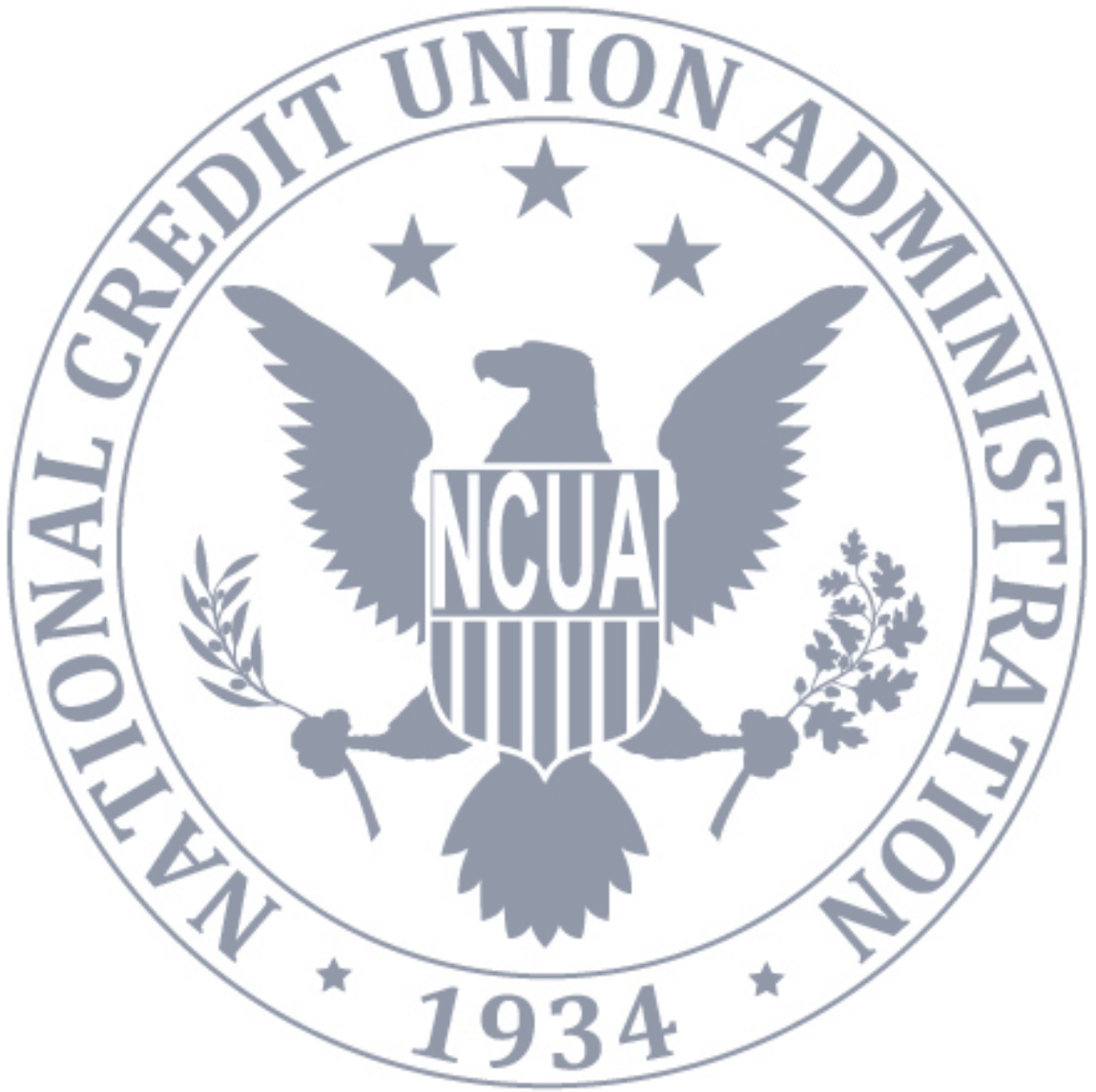
**NCUA**  
National Credit Union Administration

# Report 2 of the Regulatory Reform Task Force

---

December 13, 2018

[This page intentionally left blank]





## Regulatory Reform Task Force – Second Report • 2019

---

### Table of Contents

---

Introduction .....	2
Report 1 and Report 2 Prioritization Comparison.....	3
Tier 1 (First 24 Months) .....	6
• Completed Actions .....	6
• Proposed Actions.....	12
• Future Actions .....	19
Tier 2 (Year 3).....	22
Tier 3 (Year 4+).....	26
Appendix – Part 703 Recommendations Details.....	30

---



## Introduction

---

The NCUA established a Regulatory Reform Task Force (Task Force) in March 2017 to oversee the implementation of the agency's regulatory reform agenda. This is consistent with the spirit of the president's regulatory reform agenda and Executive Order 13777. Although the NCUA, as an independent agency, is not required to comply with Executive Order 13777, the agency chose to comply with its spirit and reviewed all of the NCUA's regulations to that end. The Task Force undertook an exhaustive review of the NCUA's regulations and issued its first draft report to Chairman McWatters in May 2017 and submitted it without change to the NCUA Board in June 2017. The first report outlined the Task Force's proposed review and reporting procedures and made numerous recommendations for the amendment or repeal of regulatory requirements that the Task Force believed to be outdated, ineffective, or excessively burdensome. On August 22, 2017 the NCUA published the substance of the Task Force's first report in the Federal Register and sought public comment.

The NCUA is now releasing the Task Force's second and final report. This consolidated version of the final report is accompanied by a full final report that will be published in the *Federal Register*. The structure of the consolidated final report and the full final report closely track the structure of the first report. The Task Force has retained the effort/impact prioritization matrix used in the first report and has tried to structure the reports as similarly as possible. The consolidated final report provides the Task Force's recommendations from the first report, the Task Force's updated recommendations, and the updated prioritizations. The full final report expands on the consolidated report by including general recommendations for the NCUA's regulatory reform agenda and a general summary of the comments received on the recommendations.

---



## Report 1 and Report 2 Prioritization Comparison

Report 2 Tier 1			
Regulation	Report 2 Priority	Report 1 Priority	Justification for Change
1. Corporate Credit Unions	<b>Completed</b>	Tier 1	N/A
2. Emergency Mergers	<b>Completed</b>	Tier 1	N/A
3. Securitization	<b>Completed</b>	Tier 1	N/A
4. Supervisory Review Committee	<b>Completed</b>	Tier 1	N/A
5. Appeals	<b>Completed</b>	Tier 1	N/A
6. Equity Distribution	<b>Completed</b>	Tier 1	N/A
7. Capital Planning and Stress Testing	<b>Completed</b>	Tier 1	N/A
8. Advertising	<b>Completed</b>	Tier 1	N/A
9. Field of Membership	<b>Completed</b>	Tier 1	N/A
10. Risk-Based Capital Delay and Risk-Based Capital Substantive	<b>Completed</b>	Tier 1  Tier 2	The risk-based capital rule finalized in October 2018 addressed both the delay and substantive recommendations made in the first report.
11. FCU Bylaws	<b>Proposed</b>	Tier 1	N/A
12. Payday Alternative Loans	<b>Proposed</b>	Not in Report	The Task Force believes the proposed change will provide additional regulatory relief.
13. Loans to Members a. Loan Maturity Limits b. Single borrower and Group of Associated Borrowers Limit	<b>Proposed</b>	Tier 1	N/A
14. Appraisals	<b>Proposed</b>	Tier 1	N/A
15. Fidelity Bonds	<b>Proposed</b>	Tier 1	N/A
16. Supervisory Committee Audits and Verification (Engagement Letter, Target Date of Delivery)	Tier 1	Tier 1	N/A
17. Supervisory Committee Audits and Verification (Audit per Supervisory Committee Guide)	Tier 1	Tier 1	N/A



18. Subordinated Debt (formerly Alternative Capital)	<b>Tier 1</b>	Tier 2	Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1.
19. Designation of Low Income Status; Acceptance of Secondary Capital Accounts by Low-Income Designated Credit Unions	<b>Tier 1</b>	Tier 2	Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1.
20. Borrowed Funds from Natural Persons	<b>Tier 1</b>	Tier 2	Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1.
21. Payment on Shares by Public Units and Nonmembers	<b>Tier 1</b>	Tier 2	Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 2 to Tier 1.
22. Compensation in Connection with Loans	Tier 1	Tier 1	N/A
23. CUSOs	<b>Tier 1</b>	Tier 3	The Task Force believes that this recommendation is appropriately placed in Tier 1. The change should be low effort and high impact.
24. Loan Interest Rate, Temporary Rate	<b>Tier 1</b>	Tier 3	The loan interest rate is a priority for the Board, the agency, and commenters.

<b>Report 2 Tier 2</b>			
<b>Regulation</b>	<b>Report 2 Priority</b>	<b>Report 1 Priority</b>	<b>Justification for Change</b>
1. Investment and Deposit Activities	<b>Tier 2 (First Item)</b>	Tier 2	Upon further consideration and in response to stakeholder feedback



			the Task Force has decided to move this item to the top of Tier 2.
2. Loan Participations	Tier 2	Tier 2	N/A
3. Purchase, Sale, and Pledge of Eligible Obligations	Tier 2	Tier 2	N/A
4. Purchase of Assets and Assumption of Liabilities	Tier 2	Tier 2	N/A
5. Third-Party Due Diligence Requirements and Third-Party Servicing of Indirect Vehicle Loans	Tier 2 Tier 2	Tier 3 Tier 1	These recommendations were combined and put into Tier 2.
6. Payout priorities in Involuntary Liquidation	Tier 2	Tier 3	

<b>Report 2 Tier 3</b>			
<b>Regulation</b>	<b>Report 2 Priority</b>	<b>Report 1 Priority</b>	<b>Justification for Change</b>
1. Preemption of State Laws (Loans to Members and Lines of Credit to Members)	Tier 3	Tier 3	N/A
2. Treasury Tax and Loan Depositories and Financial Agents of the Government	Tier 3	Tier 3	N/A
3. Leasing	Tier 3	Tier 3	N/A
4. Central Liquidity Facility	Tier 3	Tier 3	N/A
5. Maximum Borrowing Authority	Tier 3	Tier 3	N/A
6. Special Reserve for Nonconforming Investments	Tier 3	Tier 3	N/A
7. Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Acts, and Bank Secrecy Act Compliance	Tier 3	Tier 3	N/A
8. Records Preservation Program and Appendices—Record Retention Guidelines; Catastrophic Act Preparedness Guidelines	Tier 3	Tier 3	N/A



## Tier 1 (First 24 Months)

---

### Completed Actions

---

#### 1. Part 704—Corporate Credit Unions

<b>Addresses:</b>	Corporate Credit Unions
<b>Sections:</b>	704
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Low

**Report 1:** Amend capital standards for corporate credit unions to include expanding what constitutes Tier 1 Capital. For mergers, permit Tier 1 Capital to include generally accepted accounting principles (GAAP) equity acquired. Also, establish a retained earnings requirement of 2.50%, which, when achieved, will allow for all perpetual contributed capital to be included in Tier 1 Capital. The current rule for perpetual contributed capital would remain in effect until the retained earnings requirement is met.

**Report 2:** The NCUA issued a final rule related to the first report’s recommendations in November 2017.<sup>1</sup> Part 704 is scheduled to be reviewed again as part of the Office of General Counsel’s 2019 annual regulatory review.

#### 2. Appendix B to Part 701—Chartering and Field of Membership Manual

<b>Addresses:</b>	Emergency Mergers
<b>Sections:</b>	Appendix 1 to Appendix B to Part 701
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Moderate <sup>2</sup>

---

<sup>1</sup> 82 FR 55497 (Nov. 22, 2017).

<sup>2</sup> Includes potential efficiencies and/or cost savings for NCUA.





**Report 1:** Revise the definition of the term “in danger of insolvency” for emergency merger purposes to provide a standard that better protects the NCUSIF. First, for two of the three current net worth-based categories, extend the time period in which a credit union’s net worth is projected to either render it insolvent or drop below two percent from 24 to 30 months and from 12 to 18 months, respectively. Additionally, add a fourth category to the three existing net worth-based categories of the definition, to include credit unions that have been granted or received assistance under section 208 of the Federal Credit Union Act (FCU Act) within the last 15 months.

**Report 2:** The NCUA issued a final rule related to the first report’s recommendations in December 2017.<sup>3</sup> No further action is being considered by the NCUA Board at this time. Part 701 is scheduled to be reviewed again as part of the Office of General Counsel’s 2019 annual regulatory review.

### 3. Securitization

<b>Addresses:</b>	Securitization
<b>Sections:</b>	721
<b>Category:</b>	Expand Authority
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	Low

**Report 1:** Issue a legal opinion letter authorizing federal credit unions (FCUs) to issue and sell securities under their incidental powers authority. Also, finalize the safe harbor rule proposed in 2014 regarding the treatment by the NCUA Board, as liquidating agent or conservator of a federally insured credit union (FICU), of financial assets transferred by the credit union in connection with a securitization or a participation.

**Report 2:** The NCUA implemented the first report’s recommendations through its June 2017 safe harbor final rule,<sup>4</sup> and its June 21, 2017 legal opinion letter regarding the authority to issue and sell securities.<sup>5</sup> Additionally, the Office of Examination and Insurance is currently developing guidance on asset securitization for credit unions. The NCUA is also evaluating whether any additional regulation, guidance, or supervision will be necessary.

---

<sup>3</sup> 82 FR 60283 (Dec. 20, 2017).

<sup>4</sup> 82 FR 29699 (June 30, 2017).

<sup>5</sup> Asset Securitization Authority, NCUA OGC Op. Ltr. 17-0670 (June 21, 2017), available at <https://www.ncua.gov/regulation-supervision/Pages/rules/legal-opinions/2017/asset-securitization-authority.pdf>.



## 4. Supervisory Review Committee

<b>Addresses:</b>	Supervisory Review Committee
<b>Sections:</b>	746, Subpart A
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	Low

**Report 1:** Expand and formalize procedures by which FICUs may secure review of material supervisory determinations by the NCUA’s Supervisory Review Committee (SRC). Broaden the jurisdiction of the SRC to more closely conform to the practices of the other federal financial institution regulatory agencies. Expand the pool of agency personnel who will serve on the SRC and implement an optional, intermediate level of review by the Director of the NCUA’s Office of Examination and Insurance before a matter is considered by the SRC.

**Report 2:** The NCUA issued a final rule related to the first report’s recommendations in October 2017.<sup>6</sup> No further action is being considered by the NCUA Board at this time. Part 746 is scheduled to be reviewed again as part of the Office of General Counsel’s 2020 annual regulatory review.

## 5. Appeals

<b>Addresses:</b>	Appeals
<b>Sections:</b>	746, Subpart B
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	Low

**Report 1:** Consolidate procedures currently imbedded in various substantive regulations by which parties affected by an adverse determination at the regional or program office level may appeal that determination to the NCUA Board. Exclude formal enforcement actions and certain other subject areas. Establish uniform procedural guidelines to govern appeals and provide an avenue by which appellants may request the opportunity to appear in person before the NCUA Board. Matters that are excluded from the proposed new rule either require a formal hearing on the record in accordance with the Administrative Procedure Act (e.g., formal enforcement actions and certain creditor claims in liquidation) or are already governed by separate, discrete

---

<sup>6</sup> 82 FR 50270 (Oct. 30, 2017).



procedures (e.g., enforcement measures under prompt corrective action or material supervisory determinations reviewable by the SRC). Appeals of matters that are delegated by rule to an officer or position below the NCUA Board for final, binding agency action are also excluded.

**Report 2:** The NCUA issued a final rule related to the first report’s recommendations in October 2017.<sup>7</sup> No further action is being considered by the NCUA Board at this time. Part 746 is scheduled to be reviewed again as part of the Office of General Counsel’s 2020 annual regulatory review.

## 6. Part 741—Requirements for Insurance

<b>Addresses:</b>	National Credit Union Share Insurance Fund Equity Distributions
<b>Sections:</b>	741.4; 741.13
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	High

**Report 1:** Revise this section of the regulation to preclude a credit union that has already converted to another form of insurance from receiving a subsequently declared NCUSIF dividend. Currently, if a credit union terminates insurance before a premium is declared it does not pay, but if it terminates insurance before a dividend is declared but within the same calendar year it receives the dividend. This is unfair to credit unions that remain insured.

**Report 2:** The NCUA issued a final rule related to the first report’s recommendations in February 2018.<sup>8</sup> Under the final rule, a financial institution must file at least one quarterly Call Report within the current calendar year to be eligible to receive an NCUSIF equity distribution. This requirement applies to all potential beneficiaries of an NCUSIF equity distribution including FICUs that terminate federal share insurance coverage through conversion, merger, or liquidation. No further action is being considered by the NCUA Board at this time. Part 741 is scheduled to be reviewed again as part of the Office of General Counsel’s 2020 annual regulatory review.

## 7. Part 702—Capital Adequacy

<b>Addresses:</b>	Capital Planning and Stress Testing
-------------------	-------------------------------------

<sup>7</sup> 82 FR 50288 (Oct. 30, 2017).

<sup>8</sup> 83 FR 7954 (Feb. 23, 2018).



<b>Sections:</b>	702.501-702.506
<b>Category:</b>	Expand Relief
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Moderate <sup>9</sup>

**Report 1:** Explore raising the threshold for required stress testing to an amount greater than \$10 billion, and assigning responsibility for conducting stress testing to the credit unions.

**Report 2:** On April 25, 2018, the NCUA issued a final rule<sup>10</sup> amending its stress testing regulations, which, among other things, raised the threshold for required stress testing to a minimum of \$15 billion, and assigned responsibility for conducting stress testing to covered credit unions. No further action is being considered by the NCUA Board at this time. Part 702 is scheduled to be reviewed again as part of the Office of General Counsel’s 2019 annual regulatory review.

## 8. Part 740—Accuracy of Advertising and Notice of Insured Status

<b>Addresses:</b>	Accuracy of Advertising and Notice of Insured Status
<b>Sections:</b>	740
<b>Category:</b>	Expand Relief
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Revise certain provisions of the NCUA’s advertising rule to provide regulatory relief to FICUs. The current draft NPRM proposes to allow FICUs to use a fourth version of the official advertising statement, “Insured by NCUA.” The draft also expands a current exemption from the advertising statement requirement regarding radio and television advertisements and eliminates the requirement to include the official advertising statement on statements of condition required to be published by law. Finally, it requests comment about whether the regulation should be modified to accommodate advertising via new types of social media, mobile banking, text messaging and other digital communication platforms, including Twitter and Instagram. Changes made based on this final request would need to be part of a separate rulemaking.

---

<sup>9</sup> Includes potential efficiencies and/or cost savings for NCUA.

<sup>10</sup> 83 FR 17901 (Apr. 25, 2018).



**Report 2:** The NCUA issued a final rule related to the first report’s recommendations in April 2018.<sup>11</sup> No further action is being considered by the NCUA Board at this time. Part 740 is scheduled to be reviewed again as part of the Office of General Counsel’s 2020 annual regulatory review.

## 9. Appendix B to Part 701—Chartering and Field of Membership Manual

<b>Addresses:</b>	Field of Membership
<b>Sections:</b>	Appendix B to Part 701
<b>Category:</b>	Expand Authority
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Moderate

**Report 1:** Revise the chartering and field of membership rules to give applicants for community-charter approval, expansion or conversion the option, in lieu of a presumptive community, to submit a narrative to establish common interests or interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. Add public hearings for determining well-defined local communities with populations over 2.5 million. Remove the population limit on a community consisting of a statistical area or a portion thereof. Finally, when such an area is subdivided into metropolitan divisions, permit a credit union to designate a portion of the area as its community without regard to division boundaries.

**Report 2:** The NCUA issued a final rule related to the first report’s recommendations in June 2018.<sup>12</sup> Specifically, the final rule allows the option for an applicant to submit a narrative to establish the existence of a well-defined local community instead of limiting the applicant to a presumptive statistical community. Also, the NCUA Board will hold a public hearing for narrative applications where the proposed community exceeds a population of 2.5 million people. Further, for communities that are subdivided into metropolitan divisions, the NCUA Board will permit an applicant to designate a portion of the area as its community without regard to division boundaries. The NCUA Board expressly declined to increase the population limit for presumptive statistical communities. The final rule became effective September 1, 2018.<sup>13</sup> Part 701 is scheduled to be reviewed again as part of the Office of General Counsel’s 2019 annual regulatory review.

## 10. Part 702—Capital Adequacy

<sup>11</sup> 83 FR 17910 (Apr. 25, 2018).

<sup>12</sup> 83 FR 30289 (June 28, 2018).

<sup>13</sup> The NCUA has appealed the U.S. District Court for the District of Columbia’s ruling on the October 2016 field of membership rule.



<b>Addresses:</b>	Risk-Based Capital
<b>Sections:</b>	702
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	High <sup>14</sup>

**Report 1 (Delay):** Consider extending the January 1, 2019, implementation date to avoid needing to develop call report and system changes while this rule is under review. This will also allow time for the agency to more closely coincide changes with the implementation of the new current expected credit loss (CECL) accounting standard and consider any changes in risk-based capital standards for community banks currently being considered by the federal banking agencies.<sup>15</sup> Considerations include changing the definition of complex to narrow the applicability of the rule, allowing for credit unions with high net worth ratios to be exempt, and simplifying the overall risk category and weighting scheme.

**Report 1 (Substantive):** Considerations include changing the definition of complex to narrow the applicability of the rule, allowing for credit unions with high net worth ratios to be exempt, and simplifying the overall risk category and weighting scheme. These amendments need to be coordinated with any amendments to supplemental and secondary capital, which need to be coordinated with any amendments to the borrowing rule.

**Report 2:** After careful consideration and review, the NCUA issued a final rule related to the first report's recommendations in October 2018.<sup>16</sup> The final rule delayed the effective date of the RBC rule until January 1, 2020, and amended the definition of "complex" credit union for risk-based capital purposes, resulting in an increase in the asset threshold from \$100 million to \$500 million. Part 702 is scheduled to be reviewed again as part of the Office of General Counsel's 2019 annual regulatory review.

## Proposed Actions

---

### 11. Appendix A to Part 701—Federal Credit Union Bylaws

---

<sup>14</sup> Includes potential efficiencies and/or cost savings for NCUA.

<sup>15</sup> CECL (current expected credit loss) is a new accounting standard adopted by the Financial Accounting Standards Board (FASB) affecting how credit unions account for losses and related reserves for financial instruments. The FASB effective date of CECL applicable to credit unions is 2021.

<sup>16</sup> 83 FR 55467 (Nov. 6, 2018).



<b>Addresses:</b>	FCU Bylaws
<b>Sections:</b>	Appendix A to Part 701
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	High

**Report 1:** Recommend using an advance notice of proposed rulemaking (ANPR) and forming a working group to update the FCU bylaws. The FCU bylaws have not been significantly updated in nearly a decade and need to be modernized; the modernization is likely to be complex enough to require a working group approach.

**Report 2:** The NCUA issued a bylaws ANPR in March 2018<sup>17</sup> and a proposed rule with a request for comment in October 2018.<sup>18</sup> The NCUA Board will consider the above comments in developing a proposed rule.

## 12. § 701.21—Loans to members and lines of credit to members

<b>Addresses:</b>	Payday Alternative Loans (PALs)
<b>Sections:</b>	701.21(c)(7)
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	High

**Report 1:** Not Available

**Report 2:** In June 2018 the NCUA proposed amendments to the NCUA’s general lending rule to provide FCUs with an additional option to offer PALs.<sup>19</sup> This proposal would not replace the current PALs rule (PALs I). Rather, it would be an alternative option, with different terms and conditions, for FCUs to offer PALs to their members. Specifically, this proposal (PALs II) would differ from PALs I by modifying the minimum and maximum amount of the loans, modifying the number of loans a member can receive in a rolling six-month period, eliminating the minimum membership requirement, and increasing the maximum maturity for these loans. The proposal would incorporate all other requirements of PALs I into PALs II. The NCUA also solicited advanced comment on the possibility of creating a third PALs loan program (PALs III), which could include different fee structures, loan features, maturities, and loan amounts.

<sup>17</sup> 83 FR 12283 (Mar. 21, 2018).

<sup>18</sup> 83 FR 56640 (Nov. 13, 2018).

<sup>19</sup> 83 FR 25583 (June 4, 2018).



The comment period for this proposal closed on August 3, 2018. The Task Force recommends that the NCUA evaluate the comments received and explore the development of a PALS II final rule and potentially a PALS III proposal.

### 13. § 701.21—Loans to members and lines of credit to members

<b>Addresses:</b>	Loan maturity limits for FCUs
<b>Sections:</b>	701.21(c)(4)(e), (f), & (g)
<b>Category:</b>	Clarify
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Combine all the maturity limitations into one section. Current maturity limits are confusing because they are not all co-located. Also, incorporate the legal opinion with respect to modifications to make it clear a lending action (like a troubled debt restructuring) that does not meet the GAAP standard for a “new loan” is not subject to the maturity limits. In addition, consider providing longer maturity limits for 1- to 4- family real estate loans and other loans (such as home improvement and mobile home loans) permitted by 12 U.S.C. 1757(5)(A)(i) and (ii) and removing the “case-by-case” exception the NCUA Board can provide.

**Report 2:** The NCUA issued a proposed rule with a request for comment in August 2018 addressing the first report’s recommendations.<sup>20</sup>

<b>Addresses:</b>	Single borrower and group of associated borrowers limit
<b>Sections:</b>	701.21(c)(5); 701.22(a) & (b)(5); 723.2 & 723.4(c)
<b>Category:</b>	Clarify
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	High

**Report 1:** Combine single borrower (and group of associated borrowers) limits into one provision. Currently these limits are interspersed in the general loan, loan participation and member business lending regulations. It would provide clarity and consistency to incorporate all references in one location.

---

<sup>20</sup> 83 FR 39622 (Aug. 10, 2018).





**Report 2:** The NCUA Board requested further comment on the single borrower and group of associated borrower limits in the August 2018 proposal addressing loan maturities.<sup>21</sup>

## 14. Part 722—Appraisals

<b>Addresses:</b>	Appraisals
<b>Sections:</b>	722
<b>Category:</b>	Expand Relief
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** The NCUA should further explore issuing a rule to raise appraisal thresholds separately from the interagency process. In response to comments received through the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) process, the NCUA joined with the other banking agencies to establish an interagency task force to consider whether changes in the appraisal threshold are warranted. The task force is now drafting a proposed rule to relieve certain appraisal burdens. In particular, the proposal would increase the appraisal threshold from \$250,000 to \$400,000 for “commercial real estate loans” where repayment is dependent primarily on the sale of real estate or rental income derived from the real estate. In contrast to the other agencies’ appraisal regulations, the NCUA’s appraisal regulation does not currently distinguish, with respect to the appraisal threshold requirement, between different types of real estate secured loans. Under 12 CFR part 722, the dollar threshold for any real estate secured loan is \$250,000; loans above that amount must be supported by an appraisal performed by a state certified appraiser. The banking agencies’ current appraisal regulations have the same \$250,000 threshold as the NCUA’s regulation for most real estate related loans, but also recognize a separate appraisal threshold of \$1 million for certain real estate related business loans that are not dependent on the sale of, or rental income derived from, real estate as the primary source of income (hereinafter, qualifying business loans). If the NCUA joins the task force in issuing this joint proposed rule defining and raising the threshold for “commercial real estate loans,” the agency will likely also need to address the appraisal threshold for “qualifying business loans” in a subsequent rulemaking. Recommend that, instead of joining the joint proposed rule, the NCUA further explore issuing a rule to raise both thresholds separately from the interagency process.

---

<sup>21</sup> *Id.*



**Report 2:** The NCUA issued a proposed rule with a request for comment in September 2018 addressing the first report’s recommendations.<sup>22</sup> The agency issued this proposal separately from the other banking agencies. The proposal would increase the threshold below which appraisals would not be required for non-residential real estate transactions from \$250,000 to \$1,000,000. For non-residential real estate transactions that would be exempted from the appraisal requirement as a result of the revised threshold, federally insured credit unions would still be required to obtain a written estimate of market value of the real estate collateral that is consistent with safe and sound lending practices. Additionally, the proposal would restructure §722.3 of the NCUA’s appraisal regulation to clarify its requirements for the reader. Finally, the proposal would, consistent with the Economic Growth, Regulatory Relief, and Consumer Protection Act,<sup>23</sup> exempt from the NCUA’s appraisal regulation certain federally related transactions involving real estate where the property is located in a rural area, valued below \$400,000, and no state certified or licensed appraiser is available.

## 15. Part 713—Fidelity Bond and Insurance Coverage

<b>Addresses:</b>	Fidelity Bond and Insurance Coverage
<b>Sections:</b>	713
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	High <sup>24</sup>

**Report 1:** Explore ways to implement the requirements of the FCU Act in the least costly way possible. While requiring fidelity coverage is statutorily mandated by the FCU Act, the NCUA’s objective should be to allow a credit union to make a business decision based on their own product and service needs. This will effectively reduce the NCUA’s involvement in a credit union’s operational decisions while remaining consistent with the FCU Act. This should be done separately from the Regulatory Reform Task Force process.

**Report 2:** The NCUA issued a proposed rule with a request for comment in November 2018 addressing the first report’s recommendations.<sup>25</sup> The NCUA also issued a legal

---

<sup>22</sup> 83 FR 49857 (Oct. 3, 2018).

<sup>23</sup> Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. No. 115-174, 132 Stat. 1296 (2018).

<sup>24</sup> Includes potential efficiencies and/or cost savings for NCUA.

<sup>25</sup> 83 FR 59318 (Nov. 23, 2018).



opinion addressing the permissibility of certain joint coverage provisions in fidelity bonds in September 2017.<sup>26</sup>

## Future Actions

### 16. Part 715—Supervisory Committee Audits and Verification

<b>Addresses:</b>	Engagement letter, target date of delivery
<b>Sections:</b>	715.9(c)(6)
<b>Category:</b>	Remove
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	High

**Report 1:** Revise this section of the regulation to remove the specific “120 days from the date of calendar or fiscal year-end under audit (period covered)” reference from this section. Recommend the target date of the engagement letter be presented so the “credit union can meet the annual audit requirement.” This allows credit unions to negotiate the target date of delivery with the person or firm they contract with, but also ensures they meet the audit requirement per the FCU Act. This would also alleviate the need for a waiver.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization. A proposed rule addressing this recommendation will likely be issued during the first quarter of 2019.

### 17. Part 715—Supervisory Committee Audits and Verification

<b>Addresses:</b>	Audit per Supervisory Committee Guide
<b>Sections:</b>	715.7(c)
<b>Category:</b>	Clarify
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Revise this provision to remove the reference to the NCUA’s Supervisory Committee Audit Guide. In its place, include minimum standards a supervisory committee audit would be required to meet if the committee does not obtain a CPA opinion audit.

<sup>26</sup> OGC Op. Ltr. 17-0959 (Sept. 26, 2017).



**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization. A proposed rule addressing this recommendation will likely be issued during the first quarter of 2019.

## 18. Subordinated Debt (Formerly Alternative Capital)

<b>Addresses:</b>	Subordinated Debt
<b>Sections:</b>	702 generally
<b>Category:</b>	Expand Authority
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	Low

**Report 1:** As a follow up to the ANPR issued in January 2017, the NCUA Board should consider whether to propose a rule on alternative forms of capital FICUs could use in meeting capital standards. First, the NCUA Board should decide whether to make changes to the secondary capital regulation for low-income designated credit unions. Second, the NCUA Board should decide whether or not to authorize credit unions to issue supplemental capital instruments that would only count towards the risk-based net worth requirement.

**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force moved this recommendation from Tier 2 to Tier 1. Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. All other aspects of this recommendation remain unchanged.

## 19. § 701.34—Designation of low income status; Acceptance of secondary capital accounts by low-income designated credit unions

<b>Addresses:</b>	Designation of low income status; Acceptance of secondary capital accounts by low-income designated credit unions
<b>Sections:</b>	701.34
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	Low

**Report 1:** See the January 2017 ANPR on alternative capital for the broad range of changes that need to be made to this regulation to relocate capital treatment to part 702 and address securities law issues, issuance and redemption standards, etc.



**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force moved this recommendation from Tier 2 to Tier 1. Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. All other aspects of this recommendation remain unchanged.

## 20. § 701.38—Borrowed funds from natural persons

<b>Addresses:</b>	Borrowed funds from natural persons
<b>Sections:</b>	701.38
<b>Category:</b>	Clarify/Expand
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	Moderate

**Report 1:** Recommend revising this section of the regulation to comprehensively address the borrowing authority for FCUs. See the January 2017 ANPR on alternative capital for a discussion on this subject. Also, see recommended changes to part 702. A comprehensive borrowing rule could provide clarity and certainty needed to support supplemental capital.

**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 2 to Tier 1. Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. All other aspects of this recommendation remain unchanged.

## 21. § 701.32—Payment on shares by public units and nonmembers

<b>Addresses:</b>	Payment on shares by public units and nonmembers
<b>Sections:</b>	701.32
<b>Category:</b>	Expand
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	Moderate

**Report 1:** Raise the nonmember deposit limit from 20% to 50%. As the functional equivalent of borrowing, this will parallel the ability of credit unions to borrow from any source up to 50% of paid-in and unimpaired capital and surplus per § 1757(9) of the FCU Act. A credit union is required to be low-income designated to accept nonmember deposits, limiting the institutions that can engage in this activity.



**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 2 to Tier 1. All other aspects of this recommendation remain unchanged.

## 22. § 701.21—Loans to members and lines of credit to members

<b>Addresses:</b>	Compensation in connection with loans
<b>Sections:</b>	701.21(c)(8)
<b>Category:</b>	Clarify
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	Moderate/High

**Report 1:** Modify to provide flexibility with respect to senior executive compensation plans that incorporate lending as part of a broad and balanced set of organizational goals and performance measures.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization.

## 23. Part 712—Credit Union Service Organizations (CUSOs)

<b>Addresses:</b>	Credit Union Service Organizations (CUSOs)
<b>Sections:</b>	712
<b>Category:</b>	Remove & Expand
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	High

**Report 1:** Recommend examining the CUSO regulation and evaluating the permissible activities in light of the FCU Act permitting CUSOs “whose business relates to the daily operations of the credit unions they serve”<sup>27</sup> or that are “providing services which are associated with the routine operations of credit unions.”<sup>28</sup>

**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 3 to Tier 1. After reviewing the degree of effort and the potential impact, the Task Force believes that this recommendation is more appropriately placed in Tier 1. The change should be low

---

<sup>27</sup> 12 U.S.C. 1757(5)(D).

<sup>28</sup> 12 U.S.C. 1757(7)(I).



effort and high impact. The NCUA plans to issue a 2019 proposed rule on allowing CUSOs to originate any loan that a credit union may provide.

#### 24. § 701.21—Loans to members and lines of credit to members

<b>Addresses:</b>	Loan interest rate, temporary rate
<b>Sections:</b>	701.21(c)(7)(ii)
<b>Category:</b>	Expand/Clarify
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Low <sup>29</sup>

**Report 1:** Research the possibility of using a variable rate instead of a fixed, temporary rate. Also, remove the specific means for notifying credit unions to preserve future flexibility in sending notices in the most efficient and suitable manner available.

**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 3 to Tier 1. In addition to being a priority for commenters, the loan interest rate is a priority for the Board. As such, the NCUA plans to issue a 2019 ANPR to solicit further input.

---

<sup>29</sup> Includes potential efficiencies and/or cost savings for NCUA.



## Tier 2 (Year 3)

### 1. Part 703—Investment and Deposit Activities

<b>Addresses:</b>	Investment and Deposit Activities
<b>Sections:</b>	703
<b>Category:</b>	Improve & Expand
<b>Degree of Effort:</b>	High
<b>Degree of Impact:</b>	High

**Report 1:** Revise the regulation to remove unnecessary restrictions on investment authorities not required by the FCU Act, and provide a principles-based approach focused on governance for investing activity. Also, remove the pre-approval requirement for derivatives authority and substitute with a notice requirement (coheres this to part 741 for FISCUs as well). See the appendix for details on modifying this regulation.

<b>Addresses:</b>	Put option purchases in managing increased interest rate risk for real estate loans produced for sale on the secondary market
<b>Sections:</b>	701.21(i)
<b>Category:</b>	Clarify
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	High

**Report 1:** Recommend moving § 701.21(i) to part 703 Subpart B—Derivatives Authority to have all options/derivatives authority in one section.

**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation to the top of Tier 2 and the NCUA plans to take action related to this recommendation in 2019. The Task Force has also merged into the investments recommendation the separate recommendation to move § 701.21(i) to part 703 Subpart B—Derivatives Authority so that all options/derivatives authority in one section. The Task Force also emphasizes that the FCU Act prevents the NCUA from offering all of the relief credit unions are seeking in this area. All other aspects of these recommendations remain unchanged.

### 2. § 701.22—Loan participations





<b>Addresses:</b>	The limit on the aggregate amount of loan participations that may be purchased from any one originating lender not to exceed the greater of \$5 million or 100% of the FICU's net worth (unless waived).
<b>Sections:</b>	701.22(b)(5)(ii); 701.22(c)
<b>Category:</b>	Remove
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	High

**Report 1:** Remove the prescriptive limit on the aggregate amount of loan participations that may be purchased from one originating lender. Replace with a requirement that the credit union establish a limit in their policy, and tie into proposed new universal standards for third-party due diligence with heightened standards if it exceeds 100% of net worth. Eliminates the need for the waiver provision in § 701.22(c).

**Report 2:** The Task Force recommends adopting the first report's recommendation and prioritization, with an understanding that the FCU Act prevents the NCUA from offering all of the relief credit unions are seeking.

### 3. § 701.23—Purchase, sale, and pledge of eligible obligations

<b>Addresses:</b>	Purchase, sale, and pledge of eligible obligations
<b>Sections:</b>	701.23
<b>Category:</b>	Clarify & Expand
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Simplify and combine all the authority to purchase loans and other assets into one section, and provide full authority consistent with the FCU Act. Eligible obligations of the credit union's members should have no limit. Remove CAMEL rating and other limitations not required by the FCU Act.<sup>30</sup>

**Report 2:** The Task Force recommends adopting the first report's recommendation and prioritization.

### 4. § 741.8—Purchase of assets and assumption of liabilities

<b>Addresses:</b>	Purchase of assets and assumption of liabilities
-------------------	--

<sup>30</sup> See 12 U.S.C. 1757(7)(E), 1757(13), and 1757(14).



<b>Sections:</b>	741.8
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Moderate

**Report 1:** Review this regulation to determine if NCUA approval is really needed in purchasing loans and assuming liabilities from market participants other than FICUs. Credit unions already have relatively broad authority to make loans, buy investments and other assets, and enter into transactions that create liabilities. Requiring NCUA approval in all cases (including transactions not material to the acquirer) is an inordinate burden for the institution and the NCUA.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization, with an understanding that the FCU Act prevents the NCUA from offering all of the relief credit unions are seeking.

### 5. § TBD—Third-party due diligence requirements

<b>Addresses:</b>	Third-party due diligence requirements
<b>Sections:</b>	TBD
<b>Category:</b>	Simplify & Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Add a comprehensive third-party due diligence regulation and remove and/or relocate such provisions from other regulations.

<b>Addresses:</b>	Third-party servicing of indirect vehicle loans
<b>Sections:</b>	701.21(h)
<b>Category:</b>	Remove
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	Moderate

**Report 1:** Revise this section to eliminate the portfolio limits and related waiver provision. A single, comprehensive third-party due diligence regulation would address the minimum expectations for credit unions using any servicers.

**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force has combined these recommendations in Tier 2 to avoid bifurcating rulemakings addressing third-party management.



## 6. Part 709—Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation

<b>Addresses:</b>	Payout priorities in involuntary liquidation
<b>Sections:</b>	709.5
<b>Category:</b>	Clarify
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	Low <sup>31</sup>

**Report 1:** Revise the payout priorities to make unsecured creditors *pari passu* with the NCUSIF. Currently, unsecured creditors are senior to the NCUSIF.

**Report 2:** Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 3 to Tier 2. The Task Force believes this recommendation will help to protect the NCUSIF and higher prioritization is appropriate.

---

<sup>31</sup> Includes potential efficiencies and/or cost savings for the NCUA.



## Tier 3 (Year 4+)

### 1. § 701.21—Loans to members and lines of credit to members

<b>Addresses:</b>	Preemption of state laws
<b>Sections:</b>	701.21(b)
<b>Category:</b>	Simplify & Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Enhance federal preemption where possible and appropriate. FCUs that are multi-state lenders still are subject to a variety of state laws that create overlap and additional regulatory burden. Enhancing preemption where possible and appropriate may help reduce overlap and burden.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization.

### 2. § 701.37—Treasury tax and loan depositaries and financial agents of the Government

<b>Addresses:</b>	Treasury tax and loan depositaries and financial agents of the Government
<b>Sections:</b>	701.37
<b>Category:</b>	Remove/Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Low

**Report 1:** Determine if this regulation remains relevant and necessary.

**Report 2:** The Task Force recommends eliminating this regulation.

### 3. Part 714—Leasing

<b>Addresses:</b>	Leasing
<b>Sections:</b>	714
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Moderate



<b>Degree of Impact:</b>	Undetermined
--------------------------	--------------

**Report 1:** Review this regulation to identify if any changes or improvements are needed.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization.

#### 4. Part 725—National Credit Union Administration Central Liquidity Facility (CLF)

<b>Addresses:</b>	National Credit Union Administration Central Liquidity Facility (CLF)
<b>Sections:</b>	725
<b>Category:</b>	Clarify
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	Moderate

**Report 1:** Update this regulation to streamline, facilitate the use of correspondents, and reduce minimum collateral requirements for certain loans/collateral.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization, with an understanding that the FCU Act prevents the NCUA from offering all of the relief credit unions are seeking.

#### 5. Part 741—Requirements for Insurance

<b>Addresses:</b>	Maximum borrowing authority
<b>Sections:</b>	741.2
<b>Category:</b>	Remove
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	Low

**Report 1:** Remove the 50% borrowing limit for FISCUs and the related waiver provision. State law should govern in this area.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization.



## 6. Part 741—Requirements for Insurance

<b>Addresses:</b>	Special reserve for nonconforming investments
<b>Sections:</b>	741.3(a)(2)
<b>Category:</b>	Remove
<b>Degree of Effort:</b>	Low
<b>Degree of Impact:</b>	Technical Amendment

**Report 1:** Remove as no longer necessary and not consistent with GAAP.<sup>32</sup>

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization.

## 7. Part 748—Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Acts, and Bank Secrecy Act Compliance

<b>Addresses:</b>	Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Acts, and Bank Secrecy Act Compliance
<b>Sections:</b>	748
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Review this regulation to identify if any changes or improvements are needed. Recommend using an ANPR and forming a working group due to the complexity.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization. Further, the Task Force emphasizes that the NCUA has limited authority in this area. Many of the changes requested by commenters fall outside of the NCUA’s purview. The Task Force does note that the NCUA continues to participate in interagency work in this area.

## 8. Part 749—Records Preservation Program and Appendices—Record Retention Guidelines; Catastrophic Act Preparedness Guidelines

---

<sup>32</sup> There are 11 FISCUs from 8 different states that report a total of \$4.4 million in this account on the Call Report as of December 31, 2016.



<b>Addresses:</b>	Records Preservation Program and Appendices—Record Retention Guidelines; Catastrophic Act Preparedness Guidelines
<b>Sections:</b>	749
<b>Category:</b>	Improve
<b>Degree of Effort:</b>	Moderate
<b>Degree of Impact:</b>	High

**Report 1:** Review this regulation to identify if any changes or improvements are needed. Recommend using an ANPR and forming a working group due to the complexity.

**Report 2:** The Task Force recommends adopting the first report’s recommendation and prioritization.



## Appendix – Part 703 Recommendations Details

<b>Investments – Part 703 Subpart A</b>		
<b>Item</b>	<b>Change</b>	<b>Rationale</b>
<b>1</b>	<b>Investment Policies §703.3</b>	
	Fine tune section to focus on investment activities and not on balance sheet activities. E.g., remove (c) and (d), IRR and liquidity, since those items should be addressed in the IRR and liquidity policies.	Reduces burden on credit unions by not requiring IRR and liquidity policies in the investment policy. Also should help credit unions focus on balance sheet risk.
<b>2</b>	<b>Discretionary Control Over Investments and Investment Advisor §703.5(b)(1)(ii), §703.5(b)(2) - (Net worth limit)</b>	
	Remove 100 percent of net worth limit for delegated discretionary control. Would need to add language to ensure credit unions have provided investment advisors with investment guidelines that contain: duration/average life targets, permissible investments, and investment limits.	This would allow credit unions to have professionally managed, separate-account, investments without imposing a limit. There are no limits on mutual funds where the credit union has less control of what the manager invests in. Separate-account delegated discretionary programs have considerably more transparency than mutual funds.
<b>3</b>	<b>Discretionary Control Over Investments and Investment Advisor §703.5(b)(3) - (Due diligence)</b>	
	Remove prescriptive due diligence requirements and simply state the credit union must perform due diligence on the investment advisor.	This section is too prescriptive for a credit union to perform due diligence. It also does not focus on the investment advisor's ability to manage investments for the credit union.
<b>4</b>	<b>Credit Analysis §703.6 - (Due diligence)</b>	





	Modify exception to credit analysis requirements to only securities guaranteed by the entities listed in the section.	This will make it clear that NCUA requires credit analysis for investments not guaranteed, but issued by, agencies. Currently the rule would not require a credit analysis for a Fannie Mae loss sharing bond or an unguaranteed subordinate tranche of a Freddie Mac multi-family mortgage security.
5	<b>Credit Analysis §703.6 - (Maximum credit risk)</b>	
	Require a minimum of investment grade for all investments.	Sets a minimum expectation of credit worthiness for all investments purchased under the part 703 investment authority.
6	<b>Credit Analysis §703.6 - (Credit union process and people)</b>	
	A credit union, or its investment advisor, must have sufficient resources, knowledge, systems, and procedures to handle the risks and risk management (e.g. IRR modeling) of the investments it purchases.	This establishes the basic standard for a credit union to purchase an investment. This will allow for a loosening of part 703 since NCUA has established standards to purchase investments that may have been prohibited or restricted in the past.
7	<b>Broker-Dealers - §703.8(b) - (Due diligence)</b>	
	Remove prescriptive due diligence requirements and simply state the credit union must perform due diligence on the broker-dealer.	This section is too prescriptive for a broker-dealer that doesn't provide advice. May want to specify standards for broker-dealers that provide advice to credit unions.
8	<b>Monitoring Non-Security Investments §703.10 - (Reporting requirements)</b>	
	Remove this section.	Unduly prescriptive.
9	<b>Valuing Securities §703.11(a) &amp; (d) - (Due diligence)</b>	
	Combine sections and remove the reference to two price quotations. The requirement should be that the credit union use market inputs to determine if the purchase is at a reasonable market price.	Currently too prescriptive. A principled approach conforms more to market convention.
10	<b>Valuing Securities §703.11(c) - (Due diligence)</b>	
	Remove this section.	Unnecessary. This should be dictated by GAAP.
11	<b>Monitoring Securities §703.12(a) - (Reporting requirements)</b>	



	Move to and combine with §703.11.	Streamlines part 703.
12	<b>Monitoring Securities</b> §703.12(b), (c) and (d) - (Reporting requirements)	
	Remove these sections and 703.12 (a) will be combined with part 703.11.	Unduly prescriptive.
13	<b>Permissible Investment Activities and Permissible Investments</b> §703.13 and §703.14	
	Merge these sections and add language from the FCU Act for permissible investments.	Streamlines rule and provides full investment authority allowed under the Act.
14	<b>Permissible Investment Activities</b> §703.13(d) (Borrowing repurchase transactions)	
	Allow mismatch permissible in §703.20 as the “base” permissible activity.	A 30 day mismatch is low risk.
15	<b>Permissible Investments</b> §703.14(a) - (Permissible indices for variable rate investments)	
	Expand permissible indices for credit unions that have sufficient resources, knowledge, systems, and procedures to handle the risks of the investment. Ability to model the investment for IRR should be required.	This could provide credit unions with investments that they could benefit from and not pose a risk to the NCUSIF.
16	<b>Permissible Investments</b> §703.14(e) - (Muni bond limits)	
	Remove limitations on municipal exposure.	This limit is unnecessary. Credit unions should determine limits.
17	<b>Permissible Investments</b> §703.14(h) - (Mortgage note repurchase transactions)	
	Limits will be reviewed to determine if they are appropriate.	Limits may need to be increased or eliminated.
18	<b>Permissible Investments</b> §703.14(i) - (Zero coupon investment restrictions)	
	Remove limits on zero-coupon investments.	Interest rate and liquidity risk should be managed from a balance sheet standpoint. This appears to try to manage it from an individual security standpoint. This limit is unnecessary.
19	<b>Permissible Investments</b> §703.14(j)(3) - (Commercial mortgage related securities)	



	Remove this section.	Not realistic in the current market place. Furthermore, having a large number of loans was actually a negative in many CMRS deals prior to 2007. Less attention was paid to the smaller loans that were poorly underwritten versus the larger loans in the deal.
20	<b>Prohibited Investment Activities §703.15 - (Short Sales)</b>	
	Review regulatory history on the prohibition of short sales.	Restriction may be reconsidered.
21	<b>Prohibited Investments §703.16(a) - (Mortgage servicing rights)</b>	
	Determine if mortgage servicing rights (MSRs) are permissible for credit unions to purchase per the FCU Act. If so, there should be consideration given to permit the purchase of MSRs.	Buying MSRs from other credit unions may offer efficiencies in the credit union system.
22	<b>Prohibited Investments §703.16(b) - (Exchangeable, IO and PO MBS)</b>	
	Remove this section.	A credit union should be able to purchase interest-only and principal-only investments if it has sufficient resources, knowledge, systems, and procedures to handle the risks and risk management (e.g. IRR modeling) of the investments it purchases.
23	<b>Grandfathered Investments §703.18</b>	
	Remove sections that will no longer apply based on other changes in the rule.	Some parts of the section may not apply due to other changes in the rule.
24	<b>Investment Pilot Program §703.19</b>	
	Remove this section.	Pilot programs will no longer be needed with the proposed changes.
25	<b>Request for Additional Authority §703.20</b>	



	Remove this section.	Will no longer be needed with the removal or alignment of the restrictions in other sections.
--	----------------------	---

Derivatives – Part 703 Subpart B and Related Items		
Item	Change	Rationale
1	<b>“Move” Put-option purchases in managing increased interest rate risk for real estate loans produced for sale on the secondary market, in 701.21(i) to 703.102(a)</b>	
	Move the product to the Subpart B permissible derivative products.	This would consolidate into one place all permissible derivative activities.
2	<b>“Move” European financial options contract in 703.14(g) to 703.102(a)</b>	
	Move the product to the Subpart B permissible derivative products.	This would consolidate into one place all permissible derivative activities.
3	<b>“Rename” 703 Subpart B from “Derivatives Authority” to “Derivatives and Hedging Authority”</b>	
	Name change	Would widen the rule to address off balance sheet hedging instruments that are permissible.
4	<b>“Move and Modify” Derivatives section in 703.14(k) to 703 Subpart B</b>	
	With the move, remove 703.14(k)(1), move 703.14(k)(2) to 703.100 and move 703.14(k)(3) to 703.102	Would provide more clarity on hedging activities for TBA, Dollar Rolls, etc...
5	<b>“Modify” Derivatives Application process to “Notification”</b>	
	Remove the FCU application requirements and replace with a “Notification”. This would require changes to §703.108, §703.109, §703.110, §703.111, §703.112.	The “Notification” requirements would include providing NCUA with at least 60 day notice before initially engaging in a Derivative transaction.
6	<b>“Remove” Derivatives Regulatory Limits</b>	
	Remove the volume limits on derivatives activity. This would require changes to §703.103, §703.105, Appendix A.	Will be better supported as part of supervision guidance and possible use as scoping metrics.
7	<b>“Expand” Eligible Collateral for Margining</b>	



# NCUA

National Credit Union Administration

	Expand the eligible collateral in 703.104(a)(2)(iii) to include Agency Debt (Ginnie Mae Securities).	This is an acceptable practice and should have been in the Final Rule.
<b>8</b>	<b>“Modify” Eligibility (only part)</b>	
	Remove or change 703.108(b) to require notice but not pre-approval, and re-evaluate the CAMEL and asset size eligibility criteria.	Allows for more credit unions to use derivatives to manage interest rate risk subject to supervisory intervention if they are not equipped to manage it properly.
<b>9</b>	<b>“Modify” Notification requirement for FISCUs</b>	
	Change 741.219(b)	Make consistent with FCU notification requirements.
<b>10</b>	<b>“Remove” Pilot Program Participants</b>	
	Change 703.113	Not relevant anymore.