

# Rules and Regulations

Federal Register

Vol. 83, No. 80

Wednesday, April 25, 2018

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 702

RIN 3133-AE80

### Capital Planning and Supervisory Stress Testing

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

**ACTION:** Final rule.

**SUMMARY:** The NCUA Board (Board) is issuing this final rule to amend its regulations regarding capital planning and stress testing for federally insured credit unions with \$10 billion or more in assets (covered credit unions). The final rule reduces regulatory burden by removing some of the capital planning and stress testing requirements currently applicable to certain covered credit unions. The final rule also makes the NCUA's requirements more efficient by, among other things, authorizing covered credit unions to conduct their own stress tests in accordance with the NCUA's requirements and permitting covered credit unions to incorporate the stress test results into their capital plans.

**DATES:** This final rule is effective June 1, 2018.

**FOR FURTHER INFORMATION CONTACT:**

*Technical information:* Dale Klein, Senior Financial Analyst—CPST, Office of National Examinations and Supervision, at the above address or telephone (703) 518-6629; or *legal information:* John H. Brolin, Senior Staff Attorney; or Rachel Ackmann, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6540.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

At its October 19, 2017 meeting, the Board proposed amending its regulations regarding capital planning and stress testing for covered credit

unions.<sup>1</sup> As noted, the proposal was designed to reduce regulatory burden and to make the NCUA's capital planning and stress testing requirements more efficient. The NCUA is now issuing the proposed rule as final with certain revisions and clarifications based on comments received on the proposed rule.

The NCUA is issuing this final rule pursuant to its authority under the Federal Credit Union Act (FCUA).<sup>2</sup> Section 120(a) of the FCUA authorizes the Board to "prescribe rules and regulations for the administration of" the FCUA.<sup>3</sup> Section 204 of the FCUA authorizes the Board, through its examiners, "to examine any [federally] insured credit union . . . to determine the condition of any such credit union for insurance purposes."<sup>4</sup> Section 206(e) of the FCUA authorizes the Board to take certain actions against a federally insured credit union, if, in the opinion of the Board, the credit union "is engaging or has engaged, or the Board has reasonable cause to believe that the credit union or any institution affiliated party is about to engage, in any unsafe or unsound practice in conducting the business of such credit union."<sup>5</sup>

#### II. Summary of Comments

The NCUA received a total of 17 comment letters from federally insured credit unions, credit union leagues, and credit union trade organizations. All of the commenters generally supported giving covered credit unions regulatory relief from the current capital planning and stress testing requirements. All also recommended, however, that the NCUA provide even more regulatory relief. The comments are discussed in more detail below.

##### A. Capital Planning and Stress Testing Tiers

Under the proposal, covered credit unions would be subject to tiered regulatory requirements that would further ensure their capital plans and stress testing requirements are tailored to reflect their size, complexity, and financial condition. The proposal would divide covered credit unions into three tiers, with each tier subject to different

regulatory requirements. The proposal defined: (1) A tier I credit union as a covered credit union that has completed fewer than three capital planning cycles and has less than \$20 billion in total assets; (2) a tier II credit union as a covered credit union that has completed three or more capital planning cycles and has less than \$20 billion in total assets, or is otherwise designated as a tier II credit union by the NCUA; and (3) a tier III credit union as a covered credit union that has \$20 billion or more in total assets, or is otherwise designated as a tier III credit union by the NCUA. Nearly all of the commenters recommended changing the threshold levels for tier I, II, and III covered credit unions by increasing the size threshold levels for each tier. Several commenters suggested incorporating prudential factors into the threshold levels.

A majority of commenters encouraged the NCUA to increase the asset thresholds to be more consistent with the thresholds for banks. To achieve parity with banks, commenters generally recommended two different approaches to establishing size thresholds. A number of commenters recommended that the NCUA take the size thresholds established for banks and reduce that threshold to reflect the proportionately smaller size of the National Credit Union Share Insurance Fund (NCUSIF). The commenters explained that the NCUSIF is approximately one-seventh the size of the Deposit Insurance Fund (DIF), therefore, the appropriate threshold for credit unions would be about \$36.5 billion (one-seventh of the proposed \$250 billion threshold for banks).<sup>6</sup> Such comments are based on the premise that the DIF and NCUSIF are equivalent, but the DIF and NCUSIF are not structured similarly. For example, the NCUSIF has an equity deposit base which can lead to an undesirable pro-cyclical impact for all credit unions if a large loss were to occur. In addition, the NCUSIF has an

<sup>6</sup> The \$250 billion cited by commenters is only a proposal and is not currently the size threshold for annual stress tests in the banking industry. Currently, the Dodd-Frank Wall-Street Reform and Consumer Protection Act requires that banks with total consolidated assets of more than \$10 billion conduct annual stress tests. 12 U.S.C. 5365(i)(2). The Federal Reserve's annual Comprehensive Capital Analysis and Review applies to top-tier bank holding companies with average total consolidated assets of \$50 billion or more and certain intermediate holding companies of foreign banking organizations.

<sup>1</sup> 82 FR 50094 (Oct. 30, 2017).

<sup>2</sup> 12 U.S.C. 1751 *et seq.*

<sup>3</sup> 12 U.S.C. 1766(a).

<sup>4</sup> 12 U.S.C. 1784(a).

<sup>5</sup> 12 U.S.C. 1786(e).

operating equity ratio of 1.39 percent, whereas the DIF has a target reserve ratio of 2.0 percent. Therefore, the NCUA does not consider the size of the DIF as an appropriate benchmark for determining the asset thresholds for covered credit unions to conduct stress tests and capital planning exercises. The second approach suggested by commenters to ensure parity between banks and covered credit unions was to emulate the asset thresholds adopted by the banking agencies. The size threshold, however, for most banks is currently set at \$10 billion.

Additionally, as discussed above, the NCUA does not consider the risks that banks pose to the DIF as analogous to the risks that covered credit unions pose to the NCUSIF, and therefore, does not believe that at this time the size thresholds for banks are appropriate for covered credit unions.

While commenters consistently recommended increasing the size threshold levels, there were mixed opinions on the appropriate size thresholds that the NCUA should establish for each tier. Commenters that suggested using \$36.5 billion or \$50 billion as the appropriate size threshold may have differed on whether that threshold was appropriate for a tier I, II, or III covered credit union. For example, in the case of tier I covered credit unions, recommended size thresholds varied from \$10 billion to \$50 billion.

As compared to the proposed rule, the Board in the final rule has partially revised the thresholds for tier I and II covered credit unions. In the final rule, a tier I credit union is a covered credit union that has less than \$15 billion in total assets and a tier II credit union is a covered credit union that has \$15 billion or more in total assets, but less than \$20 billion in total assets (or is otherwise designated as a tier II credit union by the NCUA). Therefore, in the final rule, a covered credit union that remains under \$15 billion will not conduct annual stress tests, even if it has been subject to capital planning requirements for over three years. For such covered credit unions, the final rule provides additional regulatory relief from supervisory stress testing. However, a tier I credit union that crosses the \$15 billion threshold in less than three years after becoming a covered credit union, will have to conduct stress tests earlier under the final rule than as proposed. The NCUA has determined to remove the three year phase-in period in favor of a strict asset-size threshold because the NCUA believes that size is one of the primary indicators of systemic risk to the NCUSIF. Specifically, the NCUA

believes that a \$15 billion threshold balances the goal of providing regulatory relief with the additional risk that larger, more systemically significant credit unions pose to the NCUSIF. Therefore, the NCUA believes that at \$15 billion in total assets a covered credit union represents sufficient risk to the NCUSIF that supervisory stress tests are warranted. The designation for a tier III credit union remains the same as proposed and includes a covered credit union that has \$20 billion or more in total assets (or is otherwise designated as a tier III credit union by the NCUA).

Several commenters recommended that the NCUA define the tier I, II, and III thresholds to include factors other than a credit union's size and number of completed capital planning cycles. A common theme among such commenters was that the NCUA should explicitly consider a covered credit union's financial health and risk profile in defining the thresholds. These commenters urged the NCUA to provide additional regulatory relief and flexibility to covered credit unions that pose less risk to the NCUSIF. Factors mentioned by commenters that the NCUA could consider in granting additional regulatory relief include prompt corrective action capital levels, CAMEL ratings (specifically composite, capital, and management ratings), levels of interest rate risk, earnings, rates of growth, and concentration risk.

Capital plan review and supervisory stress testing, however, are forward-looking assessments of a covered credit union's financial condition. In contrast, capital ratings, earnings, rates of growth, and concentration risk are important supervisory tools that are based on a covered credit union's current financial condition. Additionally, capital planning and supervisory stress testing contribute to a covered credit union's CAMEL ratings and overall risk assessments. Therefore, the NCUA believes that including CAMEL ratings as criteria for supervisory thresholds would create inappropriate circularity and has not incorporated prudential conditions into the thresholds for capital planning and stress testing requirements.

Several commenters recommended that the NCUA incorporate an additional grace period between the time when a covered credit union becomes a tier I credit union and when it becomes a tier II credit union. Commenters stated that such additional time would allow tier I covered credit unions to focus on building strong capital planning and capital adequacy assessment processes before having to incorporate supervisory stress testing

programs. The NCUA agrees with commenters that it is important for tier I covered credit unions to focus on building strong capital planning and capital adequacy assessment processes before incorporating supervisory stress testing programs. Therefore, as discussed above, in the final rule, a tier I credit union will not be automatically subject to stress testing requirements after a three-year phase in period. Instead, a tier I credit union will only be subject to stress testing requirements after its total assets exceed \$15 billion. The NCUA believes that the \$15 billion threshold provides credit unions additional control over their timeline for beginning supervisory stress testing. In recent years, covered credit unions have grown an average of 10 percent per year. At this rate of growth, a covered credit union would have about four years to focus on their capital planning processes before becoming a tier II credit union and incorporating supervisory stress testing programs. The NCUA believes that modifying the thresholds by removing the three year phase-in period in favor of a strict asset-size threshold provides additional regulatory relief and that credit unions that grow in a safe and sound manner will have sufficient time to build upon their capital planning procedures before implementing stress testing requirements. The NCUA notes that a credit union with an exceptional rate of growth such that it must begin supervisory stress testing requirements less than three years after becoming a tier I credit union may raise supervisory concerns.

A few commenters recommended removing the proposed language allowing the NCUA the discretion to designate a credit union as a tier II or tier III credit union. Alternatively, the commenters suggested setting clear criteria, along with examples, to delineate the situations when this could happen. The NCUA recognizes that size alone does not provide a complete view of risk at a credit union. Each credit union is unique and matters of complexity and financial condition are nuanced. To maintain flexibility, to avoid creating a "one size fits all" rule, and to incorporate the unique attributes of individual credit unions, the Board is retaining in the final rule the ability to elevate a credit union's tier designations. Thus, in the final rule, asset size establishes the baseline for determining the credit union's tier designation, but a credit union's financial condition, complexity, and other environmental matters may be considered by the Board to elevate its

tier designation. In addition, the NCUA does not believe that codifying a strict set of conditions to delineate when this discretion is to be exercised is prudent given the highly fact specific nature of the determination.

### *B. Capital Planning Requirements*

Under the proposed rule, a covered credit union would continue to annually develop and submit to the NCUA a capital plan. For tier I and II covered credit unions, however, review of their capital plans would be incorporated into their supervisory oversight. For tier III covered credit unions, review of their capital plans would continue to be subject to the current requirement that the NCUA formally approve or reject them. A few commenters specifically expressed support for the proposed changes to the capital planning requirements. Several other commenters, however, recommended specific changes to further reduce the burden of capital planning requirements.

Specifically, several commenters stated that the NCUA should reduce the frequency of capital planning requirements. For example, a commenter recommended that the NCUA eliminate the requirement that covered credit unions provide annual capital plans. Instead, the commenter recommended that the NCUA use the supervisory process to evaluate capital. Other commenters suggested that for certain covered credit unions, capital plans should only be required every two to three years. The NCUA believes that capital adequacy considerations and capital actions should be regular and ongoing activities at covered credit unions and viewed alongside the credit union's strategic and financial plans. Annual revisions and more frequent reviews of capital plans are appropriate so that the credit union has a current view of threats to capital and can take timely mitigating action. The NCUA does not consider annual capital plan preparation, even with incorporated supervisory stress tests, to be an excessive burden, and therefore, the final rule continues to require annual development of capital plans for all covered credit unions.

Additionally, a few commenters recommended tailoring capital planning requirements to complement the stress testing changes by providing tiered expectations for capital planning requirements. The NCUA notes that it will review tier I and tier II credit union capital plans through the supervisory process and those plans are not subject to formal approval by the NCUA. Commenters also had different opinions

on whether the NCUA should formally approve or reject any covered credit union's capital plan. For example, a commenter recommended that the NCUA review all capital plans through the supervisory process, while another commenter supported the proposal to retain the requirement that the NCUA approve or reject a tier III credit union's capital plan. The final rule's tiered approach enables the NCUA to tailor capital plan expectations to the individual credit union, reserving the highest expectations and most critical assessment for the tier III credit unions. For tier III credit unions, which pose the most systemic risk to the NCUSIF, it is prudent to establish formal triggers requiring action to mitigate NCUSIF risk exposure. Therefore, in the final rule, capital plans for tier III credit unions will continue to be subject to formal approval requirements.

### *C. Stress Testing Requirements*

Under the proposal, the NCUA would no longer conduct the annual supervisory stress tests on applicable covered credit unions. Rather, the covered credit unions themselves would conduct the stress tests according to the NCUA's instructions, which ensures that the stress tests performed by credit unions are conducted in a consistent and comparable manner. Covered credit unions also would be subject to tiered stress testing requirements. Tier I credit unions would no longer be subject to stress testing requirements, and tier II and III credit unions would conduct annual stress tests. Additionally, unlike their larger counterparts in tier III, tier II credit unions would not be subject to a 5 percent minimum stress test capital threshold. Commenters had mixed opinions on whether the proposed changes to stress testing requirements provided meaningful regulatory relief. Commenters also had varied opinions on whether the NCUA or covered credit unions should conduct the required stress tests. Several commenters specifically stated their support for allowing covered credit unions to conduct their own stress tests. Other commenters, however, stated that such a change would increase operational burden and expense for credit unions. Another commenter recommended retaining the current opt-in approach to conducting stress tests. The NCUA believes that credit unions are better informed of risk when they perform their own capital adequacy assessments. Having covered credit unions conduct their own supervisory stress tests further informs their capital analysis. Also, it eliminates any negative consequences that could result from the

NCUA conducting the tests, namely that a covered credit union might abdicate its responsibility to perform rigorous capital analyses to the NCUA. Furthermore, the NCUA views the production and reporting of supervisory stress test results as incidental given the expectation that credit unions have sound capital adequacy assessment processes. Therefore, the NCUA is not changing the proposed requirement to have tier II and III covered credit unions conduct their own supervisory stress tests.

Many commenters encouraged the NCUA to consider providing more substantial regulatory relief, including reducing or eliminating stress testing requirements. Several commenters recommended eliminating the stress testing requirements altogether. Others suggested reducing the frequency of testing or waiving certain requirements based on the credit union's risk profile. The primary objective of stress testing is for the NCUA and the covered credit union to have an understanding of the credit union's ability to absorb the impact of significant economic stresses and to determine with a high degree of confidence when a covered credit union does not have sufficient capital to protect the NCUSIF from losses. Annual supervisory stress testing is an important prudential tool that provides the NCUA an aggregate view of the covered credit union's financial condition and capital resiliency. Therefore, in the final rule, tier II and III credit unions will continue to be required to conduct annual stress tests.

Commenters also had specific recommendations for the stress testing process. For example, a few commenters objected to the proposed timeline for conducting stress tests and completing capital plans. The commenters believed that the May 31st submission date provides insufficient time to complete the stress tests and incorporate results into the capital planning process. Instead, commenters suggested submission dates of July 31st or August 31st. As recently as 2015, the NCUA considered the timing of capital planning and stress test elements. In July 2015, the NCUA adopted a revised capital planning and stress testing schedule, which included consideration of the potential for credit union run stress testing.<sup>7</sup> In that final rule, the NCUA amended the capital planning and stress testing rule to establish a due date of May 31st for covered credit unions to submit their capital plans. This change provided covered credit unions with five months from the as-of

<sup>7</sup> 80 FR 48010 (Aug. 11, 2015).

date (and three months from the scenario release date) to prepare their capital plans, as commenters requested. The NCUA continues to believe that the release date of supervisory stress test scenarios and the due date for credit union capital plans provide ample time for a credit union to produce and report credible stress test results. Therefore, the final rule retains the May 31st submission date for annual stress tests. A number of commenters also encouraged the NCUA to provide stress testing instructions earlier in the capital planning process. The NCUA agrees with the commenters. The NCUA intends to post instructions on its website that will generally remain the same each year. If any modifications are necessary to the instructions due to a particular year's scenarios, such modifications will be released at the same time as the scenarios.

A minority of commenters discussed the scenarios required for stress testing. For example, a commenter recommended that tier II covered credit unions be exempt from the baseline and adverse stress test scenarios. The NCUA believes that each scenario is necessary for the NCUA and a credit union to have a complete understanding of the credit union's risks and that each scenario serves a distinct purpose in the stress test exercise. Specifically, the baseline scenario, conducted under the NCUA's instructions, serves as a benchmark to evaluate results under the stress scenarios. The stress scenarios are used to stress different aspects of a credit union's positions under unfavorable conditions and may be designed to focus on different risk characteristics of a credit union's portfolio. The spectrum of scenarios is necessary to have a complete understanding of a credit union's capital position in different economic conditions. Therefore, the NCUA believes that all stress tests should include all scenarios. Furthermore, consistent testing parameters ensure that credit union results are comparable to each other. Another commenter recommended that the NCUA continue utilizing the Federal Reserve Board's stress test assumption scenarios rather than designing its own unique tests. The commenter believed that standardization across the financial services industry is preferable. The NCUA agrees with this commenter. Consistent with past practice, the NCUA intends to publish scenarios that are consistent with the scenarios published by the banking agencies. However, the NCUA reserves the right to modify scenarios or produce unique scenarios

to ensure risk at covered credit unions is sufficiently captured in the exercise.

#### *D. Data Submission*

Covered credit unions are currently required to submit data to the NCUA as part of the stress testing process, and the proposal did not include any changes to these requirements. Several commenters, nevertheless, encouraged the NCUA to eliminate or substantially reduce the data submissions. Commenters, however, generally did not offer specific data items that they considered unnecessary or burdensome. Data collection is part of the NCUA's strategic initiative to enhance supervision and is used to inform qualitative and quantitative assessments and ratings of covered credit unions. The data currently collected for the NCUA to conduct supervisory stress tests will continue to be used by the agency to assess a covered credit union's capital adequacy through review of its capital plan and supervisory stress tests results. Also, the collected data can drive supervisory efficiencies that reduce regulatory burden for covered credit unions. For example, the data may lead to more targeted supervisory work resulting in less time on-site at covered credit unions. Therefore, the final rule retains the current data collection requirements.

#### *E. Other Comments*

A few commenters recommended amending the definition of "covered credit union" so that a credit union with total assets over \$10 billion does not become a "covered credit union" until its most recent four-quarter average of consolidated total assets exceeds \$10 billion. Based on our experience implementing the capital planning and stress testing rules, the NCUA has not found that many credit unions decrease under \$10 billion after becoming covered credit unions. Therefore, the NCUA does not believe the added complexity required by determining a four-quarter average is warranted and is not making any such changes to the final rule.

A few commenters also stated that given the enterprise-wide nature of the capital planning and supervisory stress testing regime, the NCUA should consider whether certain generally applicable requirements that must be met for a credit union to be eligible for insurance coverage are unnecessarily redundant when applied to covered credit unions. The commenters specifically noted liquidity and risk-based capital standards. Capital planning and stress testing are

distinctive supervisory tools that the NCUA uses in the supervision of risk at covered credit unions. They complement, but do not replace, other regulatory and supervisory tools used by the agency.

### **III. Final Rule**

After carefully considering the public comments, the NCUA has made several changes to the final rule. The final rule reflects the NCUA's experiences in implementing the current rule's requirements, while also considering the systemic risk that covered credit unions pose to the NCUSIF. As explained in more detail below, the final rule is intended to reduce regulatory burden by removing some of the more onerous capital planning and stress testing requirements currently applicable to covered credit unions. The changes to the NCUA's capital planning and stress testing requirements will more closely align the agency's regulatory requirements with its current supervisory expectations for covered credit unions.

In the final rule, covered credit unions are subject to new tiered regulatory requirements that further ensure their capital plans and stress testing requirements are tailored to reflect their size, complexity, and financial condition. For example, under the final rule, tier I and II covered credit unions will continue to develop annual capital plans, but the capital plans will no longer be formally submitted to the NCUA by May 31st each year. In contrast, tier III covered credit unions will continue to submit capital plans to the NCUA by May 31st that must be formally accepted or rejected by the NCUA. Additionally, stress testing requirements under the final rule are also tiered. Under the final rule, tier I credit unions are not subject to any stress testing requirements. In contrast, tier II and III covered credit unions are required to conduct stress testing, although tier II covered credit unions are not subject to a 5 percent minimum stress test capital threshold. Further, under the final rule, the NCUA will no longer be required to conduct the annual supervisory stress tests on applicable covered credit unions. Rather, the covered credit unions will conduct the stress tests.

While the NCUA recognizes that all covered credit unions are of systemic importance to the NCUSIF, the NCUA believes it is appropriate to differentiate the capital planning and stress testing requirements applicable to such institutions based on their individual characteristics. Specifically, size is deemed to be the most significant

determinant regarding each covered credit union's systemic risk to the NCUSIF. The Board's ability to recategorize a covered credit union into a higher tier, however, recognizes that the complexity and financial condition of the credit union are other important considerations for determining whether a credit union should be subject to additional capital planning and stress testing requirements. The final rule seeks to balance the higher risk that covered credit unions may pose to the NCUSIF, with the time and resources these institutions need to prepare themselves to meet capital planning and supervisory stress testing expectations. The NCUA also has sought to tailor the capital planning and stress testing requirements in such a manner as to reduce the regulatory burden imposed on those smaller covered credit unions that pose less risk to the NCUSIF. The final rule is discussed in greater detail below.

*Tiers of Covered Credit Unions*

The final rule retains the proposed use of tiers to differentiate the capital planning and stress testing requirements applicable to covered credit unions. The final rule identifies three tiers of covered credit unions and imposes varying levels of regulatory requirements based on those tiers. In brief, the tier comprised of the smallest covered credit unions is subject to the least regulatory requirements, with a concomitant increase in requirements for each tier as the size and complexity of those covered credit unions increases. In response to commenters, the final rule has partially revised the thresholds for tier I, II, and III covered credit

unions as compared to the proposed rule. Under the final rule, the three tiers are as follows:

- A *tier I credit union* is a covered credit union that has less than \$15 billion in total assets;
- A *tier II credit union* is a covered credit union that has \$15 billion or more in total assets, but less than \$20 billion in total assets, or is otherwise designated as a tier II credit union by the NCUA; and
- A *tier III credit union* is a covered credit union that has \$20 billion or more in total assets, or is otherwise designated as a tier III credit union by the NCUA.

*Amendments to the Capital Planning Requirements*

In the final rule, the level of the capital planning requirements for tier I and II credit unions generally decreases from the current regulatory requirements, but generally remains the same for tier III credit unions. This approach reduces regulatory burdens on tier I and II credit unions while allowing them to focus on establishing sound capital planning and capital adequacy assessment processes. Tier III credit unions, on the other hand, which pose the greatest systemic risk to the NCUSIF and which are most capable of complying with the current requirements, remain subject to most of the current requirements.

In the final rule, tier I and II covered credit unions are required to develop and maintain an annual capital plan, but they are no longer required to formally submit their capital plans to the NCUA for approval by May 31st of each year. The removal of the

requirement for tier I and II credit unions to formally submit capital plans to the NCUA is a change from the proposed rule. The NCUA believes this provides smaller covered credit unions with additional flexibility to incorporate their annual capital plan into their planning processes, such as development of their strategic plans.

Additionally, under the final rule, tier I and II credit unions are no longer required to have their capital plans formally approved by the NCUA. Instead, capital plan reviews for tier I and II credit unions will be conducted as part of the NCUA's supervisory process. This approach provides the NCUA greater latitude when reviewing capital plan submissions and provides the NCUA with additional flexibility to use the supervisory process to address plan deficiencies, especially for credit unions newly covered by the capital planning requirements. The NCUA believes that any increased risk to the NCUSIF that may occur as a result of providing regulatory relief can be addressed through the supervisory process.

For tier III credit unions, the final rule retains the current requirement that all such credit unions submit capital plans to the NCUA no later than May 31st of each year. In addition, for tier III credit unions, the NCUA will formally approve or reject its capital plan. Because the failure of a tier III credit union poses the most significant risk to the NCUSIF, the NCUA believes it is prudent to retain the current, more formal requirements for those credit unions. The NCUA's formal rejection of a capital plan is subject to the Supervisory Review Committee process.

TABLE 1—CAPITAL PLAN REQUIREMENTS

| Tier | Description   | Required | Financials "as of" date   | Submission and due date   | NCUA review   |
|------|---|----------|---|---|---|
| I    | A credit union with \$10 billion or more in total assets, but less than \$15 billion in total assets. | Yes      | Based on financial data within two quarters of plan completion. | Capital plan is not submitted to the NCUA, but is required to be done annually. | Review of the capital plan is part of the NCUA's supervisory oversight.                         |
| II   | A credit union with \$15 billion or more in total assets, but less than \$20 billion in total assets. | Yes      | Based on financial data within two quarters of plan completion. | Capital plan is not submitted to the NCUA, but is required to be done annually. | Review of the capital plan is part of the NCUA's supervisory oversight.                         |
| III  | A credit union with \$20 billion or more in total assets.   | Yes      | December 31st of the previous calendar year.                    | Capital plans are submitted to the NCUA by May 31st each year.                  | The NCUA accepts or rejects credit union capital plans—qualitative and quantitative assessment. |

*NCUA's Supervisory Stress Testing Requirements*

*Credit Union-Conducted Stress Tests.* Under the current rule, the NCUA is required to conduct supervisory stress tests for all covered credit unions. When

the NCUA approved the current regulation in 2014, it believed that the NCUA should initially conduct all stress tests to ensure that the NCUA had an independent assessment of risk for covered credit unions. The preamble to

the 2014 final rule acknowledged, however, that it might be appropriate in the future for certain covered credit unions to conduct their own supervisory stress tests, and the NCUA adopted a provision in the 2014 final

rule to allow for that.<sup>8</sup> In particular, current § 702.506(c) provides that after the NCUA has completed three consecutive supervisory stress tests of a covered credit union, the covered credit union may, with the NCUA’s approval, conduct the tests described in subpart E of part 702 on its own. Having now completed three annual stress testing cycles, the NCUA believes that changing its regulation to have covered credit unions conduct their own supervisory stress tests, without needing to obtain approval from the NCUA, is appropriate. Accordingly, in this final

rule, the requirement that the NCUA conduct supervisory stress tests is eliminated. Additionally, the NCUA retains the provision in the current rule that reserves the NCUA’s right to conduct the stress tests on any covered credit union at any time, and to request qualitative and quantitative information from the covered credit unions that pertains to supervisory stress testing. *Incremental Approach.* Running a supervisory stress test requires internal controls that enable the credit union to effectively challenge all material aspects of its capital planning and analysis. For a covered credit union to develop the

ability to obtain, cleanse, and manage internal and external data, and perform adequate capital analyses, it must possess a level of experience and operational scale that is unlikely to be in place or quickly developed by a credit union when it first reaches the \$10 billion threshold. Accordingly, the NCUA is adopting an incremental regulatory approach to supervisory stress testing that gradually increases regulatory requirements on a covered credit union as it increases in asset size without making the requirements too burdensome too soon.

TABLE 2—STRESS TEST INCREMENTAL APPROACH

| Tier      | Description   | Required  | Minimum stress-test ratio | Financials “as of” date | Due date  |
|-----------|---|-----------|---------------------------|-------------------------|-----------|
| I .....   | A credit union with \$10 billion or more in total assets, but less than \$15 billion in total assets. | No .....  | N/A .....                 | N/A .....               | N/A.      |
| II .....  | A credit union with \$15 billion or more in total assets, but less than \$20 billion in total assets. | Yes ..... | N/A .....                 | December 31st .....     | May 31st. |
| III ..... | A credit union with \$20 billion or more in total assets .....  | Yes ..... | 5% .....                  | December 31st .....     | May 31st. |

*Tier I.* In the final rule, a tier I credit union is not subject to any supervisory stress testing requirements, nor is it required to incorporate the NCUA’s stress test scenarios in its capital plan. This approach allows a tier I credit union time after it reaches the \$10 billion threshold to obtain the policies and processes necessary to develop sound capital plans and analyses prior to incorporating supervisory stress testing. Once a covered credit union has \$15 billion in total assets, it is required to meet all tier II requirements described below.

*Tier II.* In the final rule, a tier II credit union is subject to supervisory stress testing requirements. In addition, a tier II credit union must incorporate the NCUA’s annual stress test scenarios into its capital plan, even though the capital plan is not required to be submitted to the NCUA on May 31st. The NCUA does not believe this particular requirement imposes additional regulatory burden on a tier II credit union because, as the NCUA has observed over the last three years of implementing the stress testing regulations, covered credit unions already incorporate the NCUA’s supervisory stress test scenarios into their capital plans even though they are not required to do so under the current rule.

*Tier III.* In the final rule, a tier III credit union is subject to supervisory stress testing requirements and must

meet a minimum stress-test ratio of 5 percent. The final rule also requires a tier III credit union to incorporate the NCUA’s stress test scenarios into its capital plan submission. Because a tier III credit union poses the greatest level of systemic risk to the NCUSIF, it must also submit a plan to build capital or mitigate the risk if the credit union shows that its stress test capital ratio would fall below the 5 percent minimum stress test capital threshold. This is consistent with the supervisory stress testing requirements in current § 702.506(g).

The final rule applies the asset thresholds as of the March 31st measurement date of each year.<sup>9</sup> If a credit union crosses any of the tier I, II, or III asset thresholds by March 31st, then the credit union’s new classification is effective at the beginning of the next year. Therefore, if a credit union has over \$10 billion in total assets as of March 31, 2018, it must complete a capital plan in calendar year 2019. And, if a covered credit union has \$15 billion in assets on March 31, 2018, it must also conduct a stress test in calendar year 2019.

*Website Instructions.* The NCUA will publish on its website instructions for tier II and III credit unions on how to administer their own supervisory stress tests. The NCUA believes that a covered credit union’s ability to maintain independence and flexibility is essential

to the overall success of the NCUA’s supervisory stress testing program. Accordingly, tier II and III credit unions are required to conduct their own stress tests in accordance with the instructions provided by the NCUA.

*Conforming and Clarifying Amendments.* The final rule also makes some minor conforming and clarifying amendments to the current rule. These conforming and clarifying amendments include removing, changing, and adding certain definitions.

The changes outlined above are discussed in more detail in the Section-by-Section Analysis below.

**IV. Section-by-Section Analysis**

*Section 702.502 Definitions*

The final rule retains most of the definitions included in the proposed rule except that the proposed definition of capital planning cycle has been removed. The definition was necessary to distinguish between tier I and II credit unions in the proposed rule, but is not necessary in the final rule as the number of capital planning cycles completed is no longer a distinguishing factor between the tier I and II threshold classifications. The final rule also retains most of the definitions from current § 702.502, without change, with the following exceptions.

<sup>8</sup> 79 FR 24311 (Apr. 30, 2014).

<sup>9</sup> See the definition of “covered credit union.” 12 CFR 702.502.

*Adverse Scenario*

The final rule removes the definition of “adverse scenario” from § 702.502 and replaces this term throughout subpart E with terms more commonly used in the financial services industry. This change is intended to reduce confusion for covered credit unions. No substantive changes to the requirements of subpart E are intended by this change and covered credit unions will continue to be subject to the baseline and one or more stressed scenarios.

*Covered Credit Union*

The final rule makes conforming amendments to the current definition of “covered credit union” in § 702.502. The amended definition provides that “covered credit union” means a federally insured credit union whose assets are \$10 billion or more. The definition provides further that a credit union that crosses that asset threshold as of March 31st of a given calendar year is subject to the applicable requirements of subpart E in the following calendar year.

*Scenarios*

The revised definition provides that “scenarios” are those sets of conditions that affect the U.S. economy or the financial condition of a covered credit union that serve as the basis for stress testing, including, but not limited to, NCUA-established baseline scenarios, and stress scenarios. It is the NCUA’s intention to continue to base the NCUA-established scenarios on the scenarios developed by the Federal Reserve Board. As currently is the practice, the NCUA may modify such scenarios to ensure they are appropriate for domestic banking operations.

*Severely Adverse Scenario*

The final rule deletes the definition of “severely adverse scenario” from § 702.502 and replaces this term throughout subpart E with terms more commonly used in the financial services industry. This change is intended to reduce confusion for covered credit unions. No substantive changes to the requirements of subpart E are intended by this change and covered credit unions will continue to be subject to the baseline and one or more stressed scenarios.

*Stress Scenario*

The final rule adds the definition “stress scenario” to § 702.502. The definition provides that “stress scenario” means a scenario that is more adverse than that associated with the baseline scenario.

*Tier I Credit Union*

The final rule adds the definition of “tier I credit union” to § 702.502. The definition provides that “tier I credit union” means a covered credit union that has less than \$15 billion in total assets. The definition of a tier I credit union provides regulatory relief for qualifying covered credit unions. This definition allows the NCUA to better align regulatory expectations based on the size, complexity, and financial condition of each covered credit union.

*Tier II Credit Union*

The final rule adds the definition of “tier II credit union” to § 702.502. The definition provides that “tier II credit union” means a covered credit union that has \$15 billion or more in total assets, or is otherwise designated as a tier II credit union by NCUA. This definition recognizes the iterative nature of the NCUA’s capital planning and stress testing processes, and acknowledges that covered credit unions get better at developing and implementing their capital plans over time and through repetition. The NCUA believes these changes provide regulatory relief for tier II credit unions.

*Tier III Credit Union*

The final rule adds the definition of “tier III credit union” to § 702.502. The definition provides that “tier III credit union” means a covered credit union that has \$20 billion or more in total assets, or is otherwise designated as a tier III credit union by NCUA. The final rule identifies credit unions with total assets of \$20 billion or more as posing the highest degree of risk to the NCUSIF. While the NCUA considers qualitative and quantitative capital plan supervision and credit union-run stress test review to be appropriate for covered credit unions with less than \$20 billion in total assets, it does not for larger covered credit unions. For covered credit unions with total assets of \$20 billion or more, the NCUA believes it is prudent, given the size of the NCUSIF and the potential loss associated with the failure of a credit union that large, to establish formal triggers requiring the NCUA and credit union actions to further mitigate NCUSIF risk exposure.

The Board retains the authority to designate a covered credit union as a tier II credit union or tier III credit union.

*Section 702.504 Capital Planning*

The final rule retains most of current § 702.504 without change, with the following exceptions.

## (a) Annual Capital Planning

## (a)(1)

Section 702.504(a)(1) continues to provide that all covered credit unions must develop and maintain a capital plan. Under the final rule, however, only tier III credit unions are required to submit their capital plan and capital policy to the NCUA. Therefore, the final rule amends § 702.504(a)(1) to state that a tier I and II credit union must complete a capital plan by December 31st each year, but are not required to submit a plan to the NCUA. Additionally, the final rule has been amended to state that the capital plan must be based on financial data from either of the two preceding calendar quarters. For example, if a tier I or II credit union’s board approves its capital plan in the fourth quarter, the plan financial data must be as of either September 30th or June 30th. Section 702.504(a)(1) is also amended to explicitly state that a tier III credit union must submit its plan and capital policy to the NCUA by May 31st each year, or such later date as directed by the NCUA. The final rule also continues to provide that for tier III covered credit unions, the plan must be based on the covered credit union’s financial data as of December 31st of the preceding calendar year, or such other date as directed by the NCUA. Finally, § 702.504(a)(1) will no longer include the last sentence in current § 702.504(a)(1), which provides that the NCUA will assess whether the capital planning and analysis process is sufficiently robust in determining whether to accept a credit union’s capital plan. Given the other changes in this final rule, this sentence is no longer necessary.

## (a)(2)

The current rule states that a covered credit union’s board of directors (or a designated committee of the board) must at least annually, and prior to the submission of the capital plan, review and approve the credit union’s capital plan. The final rule clarifies that this requirement applies to all covered credit unions, even if the credit union is not required to submit the plan to the NCUA.

## (b) Mandatory Elements

## (b)(4)

The final rule deletes current § 702.504(b)(4) from the regulation. Current § 702.504(b)(4) provides that if a credit union conducts its own stress test under § 702.506(c), its capital plan must include a discussion of how the credit union will maintain a stress test capital ratio of 5 percent or more under

baseline, adverse, and severely adverse conditions in each quarter of the 9-quarter horizon. This sentence is no longer necessary because it is fully addressed in § 702.506(f).

*Section 702.505 NCUA Action on Capital Plans*

(a) Timing

The final rule amends current § 702.505(a) by dividing paragraph (a) into two subparts. Under this final rule, § 702.505(a)(1) provides that the NCUA will address any deficiencies in the capital plans submitted by tier I and tier II credit unions through the supervisory process. The intent of this change is to provide regulatory relief to tier I and tier II credit unions by removing the regulatory review and regulatory “accept or reject” assessment of their capital plans. It also provides the NCUA with additional flexibility in addressing plan deficiencies.

Under this final rule, § 702.505(a)(2) continues to require that the NCUA accept or reject tier III credit unions’ capital plans. The NCUA is not removing this requirement for tier III credit unions at this time for the reasons discussed above. Accordingly, § 702.505(a)(2) provides that the NCUA will notify tier III credit unions of the acceptance or rejection of their capital plans by August 31 of the year in which their plan is submitted.

The final rule also makes additional conforming changes throughout § 702.505 to clarify that only tier III credit unions are required to operate under a capital plan formally accepted by the NCUA. No substantive changes, other than those discussed above, are intended.

*Section 702.506 Annual Supervisory Stress Testing*

Much of the substance of current § 702.506 remains unchanged in the final rule. Each of the substantive amendments are discussed in detail below. The final rule also makes some non-substantive conforming amendments to address certain changes in terminology.

(a) General Requirements

The final rule amends current § 702.506(a) by adding a new clarifying sentence to the beginning of paragraph (a). The new sentence provides that only tier II and tier III credit unions are required to conduct supervisory stress tests. The NCUA believes that exempting tier I credit unions from supervisory stress testing provides prudent regulatory relief and enables tier I credit unions time to develop their

own capital adequacy assessments. The NCUA considers the supervisory stress testing exemption for tier I credit unions, which allow credit unions to grow from \$10 billion in total assets to \$15 billion in total assets, to be sufficient time to develop internal capabilities to perform credit union-run supervisory stress tests.

*NCUA-Run Tests*

The final rule deletes current § 702.506(b) regarding NCUA conducted stress tests, which, because of the other changes being implemented to part 702, is overridden. The NCUA reserves, in amended § 702.506(b)(3), the right to conduct stress tests on covered credit unions if it deems such action necessary.

(b) Credit Union-Run Supervisory Stress Tests

The final rule makes significant revisions to current § 702.506(c) (which has been renumbered to § 702.506(b) in the final rule) to require tier II and tier III credit unions to conduct their own stress tests instead of first having to get approval from the NCUA. In the final rule, renumbered § 702.506(b) is split into three new subparagraphs, each of which is described in more detail below.

(b)(1) General

Section 702.506(b)(1) of the final rule provides that all supervisory stress tests must be conducted according to the NCUA’s instructions. The NCUA is adding this requirement to ensure that supervisory stress tests performed by tier II and tier III credit unions are conducted in a manner that promotes consistency and comparability. Credit union-run stress tests must adhere to these principles in order for the NCUA to assess inherent risk in the portfolios of covered credit unions and establish supervisory benchmarks. The NCUA will publish credit union-run supervisory stress test instructions on its website.

(b)(2) Tier III Credit Unions

Section 702.506(b)(2) of the final rule provides that when conducting its stress test, a tier III credit union must apply the minimum stress test capital ratio to all time periods in the planning horizon. The NCUA believes that only tier III credit unions should be subject to a minimum stress test capital requirement. Therefore, tier II credit unions do not have to apply a minimum stress test capital ratio to each time period in the planning horizon.

(b)(3) NCUA Tests

Section 702.506(b)(3) of the final rule retains the last two sentences in current § 702.506(c), without change. Section 702.506(b)(3) of the final rule provides that the NCUA reserves the right to conduct the stress tests described in this section on any covered credit union at any time. Paragraph (b)(3) provides further that where both the NCUA and a covered credit union have conducted the tests, the results of the NCUA’s tests will determine whether the covered credit union has met the requirements of part 702. The final rule includes no substantive changes to these two sentences as compared to the current rule.

(e) Stress Test Results

The final rule states that all stress test results are due to the NCUA by May 31st each year. The May 31st stress testing due date applies to both tier II and III credit unions, even though tier II covered credit unions are not required to submit a capital plan on May 31st.

(f) Supervisory Actions

The final rule retains much of the language in current § 702.506(g), but inserts some additional language. The section also is broken into three subsections, each of which is discussed in more detail below.

(f)(1)

Section 702.506(f)(1) of the final rule provides that if a credit union-run stress test shows a tier III credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the planning horizon, the credit union must incorporate into its capital plan a stress test capital enhancement plan showing how it will meet that target.

(f)(2)

Section 702.506(f)(2) provides that if an NCUA-run stress test shows that a tier III credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the planning horizon, the credit union must provide the NCUA, by November 30 of the calendar year in which the NCUA conducted the tests, a stress test capital enhancement plan showing how it will meet that target. As explained above, the NCUSIF risk exposure to a tier I and tier II credit union is sufficiently mitigated through qualitative and quantitative supervision of the credit union’s capital planning and capital adequacy analysis. Accordingly, the final rule offers



regulatory relief as tier I and tier II credit unions are no longer subject to the minimum stress test capital ratio.

(f)(3)

Section 702.506(f)(3) of the final rule provides that a tier III credit union operating without an NCUA-approved stress test capital enhancement plan required under this section may be subject to supervisory action. A tier III credit union operating without an accepted capital plan or an approved stress test capital enhancement plan will be considered poorly managed and/or operating with insufficient capital to support the credit union's risk profile. The NCUA believes it is prudent to subject a tier III credit union to heightened regulatory scrutiny under such circumstances.

#### V. Stress Testing and Capital Plan Requirements for 2018

The final rule is effective June 1, 2018, after the May 31, 2018 submission date for capital plans. Therefore, the current rule remains effective for covered credit unions' 2018 capital plans and all covered credit unions must complete their capital plans by May 31, 2018. Tier I and II credit unions, however, do not need to submit their capital plans to the NCUA by May 31, 2018, and the NCUA will review their capital plans through the supervisory process. With respect to stress testing, the NCUA will conduct stress tests in calendar year 2018 for supervisory purposes.

#### VI. Regulatory Procedures

##### 1. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis of any significant economic impact any regulation may have on a substantial number of small entities (primarily those under \$100 million in assets).<sup>10</sup> The final rule and its requirements apply to only the largest credit unions, those with \$10 billion or more in total assets. Accordingly, the Board certifies that it will not have a significant economic impact on a substantial number of small entities.

##### 2. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of

information unless it displays a current, valid OMB control number.

In accordance with the PRA, the information collection requirements included in this final rule has been submitted to OMB for approval under control number 3133-0199, and includes the following program changes:

Section 702.504 requires FICUs with assets of at least \$10 billion (covered credit unions) to develop and maintain capital plans; but only tier III to submit NCUA. The removal of the requirement for tier I and II credit unions to formally submit capital plans to NCUA is a change from the proposed rule and reflects a reduction of 30 burden hours annually. Also, an increase of 240 burden hours is due to an adjustment in the number of respondents from 3 to 4 falling under the recordkeeping requirements of § 702.504.

Section 702.506 requires tier II and III credit unions to conduct their own supervisory stress tests in a manner prescribed by NCUA, which had previously been conducted by NCUA. It is estimated this new information collection requirement impacts five credit unions for a total increase of 500 burden hours.

*Estimated number of respondents:* FICUs with assets of at least \$10 billion.

*Frequency:* Annually.

*Total Annual Burden Hours*

*Requested:* 2,960 under OMB control number 3133-0199; a total increase of 710 burden hours.

##### 3. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The Board has, therefore, determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

##### 4. Assessment of Federal Regulations and Policies on Families

The Board has determined that this final 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).

##### 5. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. NCUA does not believe this final rule is a "major rule" within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

##### List of Subjects in 12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board, on April 19, 2018.

**Gerard Poliquin,**

*Secretary of the Board.*

For the reasons discussed above, the National Credit Union Administration amends 12 CFR part 702 as follows:

#### PART 702—CAPITAL ADEQUACY

■ 1. Revise the authority citation for part 704 to read as follows:

**Authority:** 12 U.S.C. 1766(a), 1784(a), 1786(e), 1790d.

##### Subpart E—Capital Planning and Stress Testing

■ 2. Amend § 702.502 as follows:

■ a. Remove the definition of "adverse scenario".

■ b. Remove from the definition of "covered credit union" the words "capital planning and stress testing" and add in their place the word "applicable".

■ c. Remove from the definition of "scenarios" the words "adverse, and severely adverse" and add in their place the words "scenarios and stress".

■ d. Remove the definition of "severely adverse scenario".

■ e. Add in alphabetical order the definitions of "stress scenario", "tier I credit union", "tier II credit union", and "tier III credit union" to read as follows:

##### § 702.502 Definitions.

\* \* \* \* \*

*Stress scenario* means a scenario that is more adverse than that associated with the baseline scenario.

\* \* \* \* \*

*Tier I credit union* means a covered credit union that has less than \$15 billion in total assets.

*Tier II credit union* means a covered credit union that has \$15 billion or more

<sup>10</sup> 5 U.S.C. 603(a); 12 U.S.C. 1787(c)(1).

in total assets but less than \$20 billion in total assets, or is otherwise designated as a tier II credit union by NCUA.

*Tier III credit union* means a covered credit union that has \$20 billion or more in total assets, or is otherwise designated as a tier III credit union by NCUA.

- 3. Amend § 702.504 as follows:
    - a. Revise paragraph (a)(1).
    - b. In paragraph (a)(2) introductory text, add the words “for tier III credit unions,” before the words “prior to the submission of the capital plan”.
    - c. Remove paragraph (b)(4).
    - d. Redesignate paragraphs (b)(5) and (b)(6) as paragraphs (b)(4) and (b)(5).
- The revision reads as follows:

**§ 702.504 Capital planning.**

(a) \* \* \* (1) A covered credit union must develop and maintain a capital plan. Tier I and tier II credit unions must complete this plan and their capital policy by December 31 each year, but are not required to submit this plan to the NCUA. For tier I and tier II credit unions, the plan must be based on the credit union’s financial data from either of the two calendar quarters preceding the quarter in which the plan is approved by the credit union’s board of directors (or a designated committee of the board). A tier III credit union must submit this plan and its capital policy to NCUA by May 31 each year, or such later date as directed by NCUA. For tier III credit unions, the plan must be based on the credit union’s financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA.

\* \* \* \* \*

- 4. Amend § 702.505 as follows:
    - a. Revise paragraph (a).
    - b. Add to the introductory text of paragraph (d) the words “tier III” before the words “credit union’s capital plan”.
    - c. In paragraph (e), remove the word “covered” and add in its place the words “tier III”.
- The revision reads as follows:

**§ 702.505 NCUA action on capital plans.**

(a) *Timing.* (1) *Tier I & tier II credit unions.* NCUA will address any deficiencies in the capital plans submitted by tier I and tier II credit unions through the supervisory process.

(2) *Tier III credit unions.* NCUA will notify tier III credit unions of the acceptance or rejection of their capital plans by August 31 of the year in which their plan is submitted.

\* \* \* \* \*

- 5. Section 702.506 is revised to read as follows:

**§ 702.506 Annual supervisory stress testing.**

(a) *General requirements.* Only tier II and tier III credit unions are required to conduct supervisory stress tests. The supervisory stress tests consist of a baseline scenario, and stress scenarios, which NCUA will provide by February 28 of each year. The tests will be based on the credit union’s financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. The tests will take into account all relevant exposures and activities of the credit union to evaluate its ability to absorb losses in specified scenarios over a planning horizon.

(b) *Credit union-run supervisory stress tests—(1) General.* All supervisory stress tests must be conducted according to NCUA’s instructions.

(2) *Tier III credit unions.* When conducting its stress test, a tier III credit union must apply the minimum stress test capital ratio to all time periods in the planning horizon. The minimum stress test capital ratio is 5 percent.

(3) *NCUA tests.* NCUA reserves the right to conduct the tests described in this section on any covered credit union at any time. Where both NCUA and a covered credit union have conducted the tests, the results of NCUA’s tests will determine whether the covered credit union has met the requirements of this subpart.

(c) *Potential impact on capital.* In conducting stress tests under this subpart, the credit union, or the NCUA if it elects to conduct the stress test under paragraph (b)(3) of this section, will estimate the following for each scenario during each quarter of the planning horizon:

(1) Losses, pre-provision net revenues, loan and lease loss provisions, and net income; and

(2) The potential impact on the stress test capital ratio, incorporating the effects of any capital action over the planning horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the horizon. The credit union, or the NCUA if it elects to conduct the stress test under paragraph (b)(3) of this section, will conduct the stress tests without assuming any risk mitigation actions on the part of the credit union, except those existing and identified as part of the credit union’s balance sheet, or off-balance sheet positions, such as derivative positions, on the date of the stress test.

(d) *Information collection.* Upon request, the credit union must provide NCUA with any relevant qualitative or quantitative information requested by

NCUA pertinent to the stress tests under this subpart.

(e) *Stress test results.* A credit union required to conduct stress tests under this section must incorporate the results of its tests in its capital plan. A credit union required to conduct stress tests must submit its stress test results to NCUA by May 31 of each year.

(f) *Supervisory actions.* (1) If a credit union-run stress test shows a tier III credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the planning horizon, the credit union must incorporate, into its capital plan, a stress test capital enhancement plan that shows how it will meet that target.

(2) If an NCUA-run stress test shows that a tier III credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the planning horizon, the credit union must provide NCUA, by November 30 of the calendar year in which NCUA conducted the tests, a stress test capital enhancement plan showing how it will meet that target.

(3) A tier III credit union operating without an NCUA approved stress test capital enhancement plan required under this section may be subject to supervisory actions.

(g) *Consultation on proposed action.* Before taking any action under this section against a federally insured, state-chartered credit union, NCUA will consult and work cooperatively with the appropriate State official.

[FR Doc. 2018–08558 Filed 4–24–18; 8:45 am]

BILLING CODE 7535-01-P

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 740**

**RIN 3133-AE78**

**Accuracy of Advertising and Notice of Insured Status**

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

**ACTION:** Final rule.

**SUMMARY:** The NCUA Board (Board) is revising provisions of the NCUA’s advertising rule to provide regulatory relief to federally insured credit unions (FICUs). The advertising rule requires FICUs to use the NCUA’s official advertisement statement when advertising, and it currently permits three versions of that statement. Under this final rule, the Board is allowing FICUs the option of using a fourth