



Final Regulation

National Credit Union Administration: Corporate Credit Unions

17-EF-15

NAFCU would like to highlight the following:

- The National Credit Union Administration (NCUA) has issued its final rule, as proposed, with respect to regulations governing corporate credit unions (corporates) and the scope of their activities.
- The rule revises the current 2010 corporate credit unions rule to alter the calculation of capital after corporates consolidate and set a retained earnings ratio target in meeting prompt corrective action standards.
- More specifically, the rule requires the inclusion of “GAAP equity acquired in a merger” as a component of retained earnings, adds a definition of “retained earnings ratio” to 12 C.F.R. Part 704, which affects the definition of “Tier 1 capital,” and removes the requirement to limit perpetual contributed capital counted as Tier 1 capital to the amount of retained earnings.
- The rule also deletes the phrase “the retained earnings of any acquired credit union, or an integrated set of activities and assets, calculated at the point of acquisition, if the acquisition is a mutual combination” from the current definition of “Tier 1 capital” to eliminate redundancy.

Effective Date:

December 22, 2017

Summary

The NCUA Board (Board) has issued a final rule amending 12 C.F.R. Part 704 to revise the definition of “retained earnings,” add a definition of “retained earnings ratio,” and revise the definition of “Tier 1 capital.” The most significant change in this rule is the removal of the requirement limiting perpetual contributed capital (PCC) counted at Tier 1 capital to the amount of retained earnings. This permits a corporate credit union to include in its Tier 1 capital all PCC regardless of its source, including that which is sourced from an entity not covered by federal share insurance. The final rule, however, requires a corporate to achieve an eventual retained earnings ratio of 250 basis points before it is permitted to include all PCC in its Tier 1 capital. Retained earnings ratio is defined as “the corporate credit union’s retained earnings divided by its moving daily average net assets.”

A copy of the final rule can be found [here](#).

This Final Regulation includes this brief summary, background, and section-by-section analysis of the final rule. We urge you to read the materials carefully. Should you have any questions or require additional information, please contact Ann Kossachev, Regulatory Affairs Counsel, at (703) 842-2212, or akossachev@nafcu.org.

Background

In the wake of the 2007-2009 financial crisis, the NCUA took extraordinary short- and mid-term measures to stabilize the corporate credit union system, including conserving five corporates. Then in 2010, the NCUA revised the regulations governing corporates and their activities as a longer-term approach to achieving structural enhancements in the system. The 2010 rule aimed to provide a strong foundation for a healthy corporate system that prevents the recurrence of the kind of financial losses that led to the failure of the five corporates and weakened the financial condition of several others. In particular, the 2010 rule implemented a prompt corrective action (PCA) regime stipulating capital adequacy for corporates, based largely on the Basel I requirements, and stressing the importance of holding both tangible and durable capital.

Since 2010, the economy has improved significantly and the corporate system has contracted and consolidated substantially. Assets declined from approximately \$81.7 billion prior to the 2010 rule to approximately \$24.9 billion today and the total number of corporates decreased from 26 to 11 during that same period. As a result, in July 2017, the Board published proposed amendments to the corporate rule to alter the calculation of capital after corporates consolidate and set a retained earnings ratio target in meeting PCA standards. The NCUA received 38 comments on the proposal, all in support of the proposed changes. The rule is now being finalized as proposed.

Section-by-Section Analysis

The following is a section-by-section analysis of some highlights of the final Corporate Credit Unions rule. This analysis does not summarize the entire rule; only select substantive sections of the rule.

Corporate Consolidations and Capital in Mergers – Definition of Retained Earnings

Prior to the proposal, the definition of “retained earnings” included undivided earnings, regular reserve, reserve for contingencies, supplemental reserves, reserve for leases, and other appropriations from undivided earnings as designated by management or the NCUA. The proposal sought to add “GAAP equity acquired in a merger” to that list in an effort to clarify that this capital is available to cover losses, enhance transparency, and reduce ambiguity. The majority of commenters specifically supported this addition, so the Board is finalizing this amendment to the definition of “retained earnings” as proposed.

Retained Earnings Ratio

The NCUA is also removing the current requirements which limit PCC counted as Tier 1 capital to the amount of retained earnings and allowing a corporate to include in its Tier 1 capital all PCC that is sourced from an entity not covered by federal share insurance. Additionally, Part 704 will now require all corporates to achieve eventual retained earnings of 250 basis points. As a result, the final rule adds a definition of “retained earnings ratio” to mean “the corporate credit union’s retained earnings divided by its moving daily average of net assets.” Once a corporate attains the benchmark of 250 basis points, it will be permitted to include all PCC, regardless of its source, in its Tier 1 capital. Until it reaches that benchmark, the corporate is required to deduct the amount of PCC exceeding retained earnings by 200 basis points as an inducement to build retained earnings. The Board notes that it will continue to require that corporate call reports clearly reflect the amount of PCC that is not being counted in the leverage ratio in the “PCC calculation” section of the call report.

Appendix B to Part 704 – Expanded Authorities

The final rule adds a retained earnings ratio requirement to the expanded investment authorities in order to limit the risk of the expanded investment portfolios.

Effective Date

The final rule will become effective on December 22, 2017.

This document is intended for informational purposes only. It does not constitute legal advice. If such advice or a legal opinion is required, please consult with competent local counsel.

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NAFCU'S 2017 REGULATORY ALERTS

Number	Topic	Date Issued
17-EA-01	Treasury: Participation in the Automated Clearing House	1/3/2017
17-EA-02	CDFI Fund: RFI Regarding Policies and Procedures	1/18/2017
17-EA-03	NCUA: Alternative Capital ANPR	2/8/2017
17-EA-04	CFPB: Alternative Data	3/22/2017
17-EA-05	CFPB: Remittance Rule Assessment	4/5/2017
17-EA-06	CFPB: Amendments to HMDA Final Rule	5/2/2017
17-EA-07	CFPB: CARD Act Review	5/9/2017
17-EA-08	CFPB: Small Business Lending Information Collection RFI	5/17/2017
17-EA-09	NCUA: 2017 Regulation Review	5/19/2017
17-EA-10	NCUA: Exam Appeals	6/6/2017
17-EA-11	NCUA: Supervisory Review Committee	6/6/2017
17-EA-12	NCUA: Mergers	6/7/2017
17-EA-13	CFPB: Improving Language Access	6/9/2017
17-EA-14	CFPB: Mortgage Servicing Rules Assessment	6/9/2017
17-EA-15	Federal Reserve: Regulation CC – Forged or Altered Checks	6/28/2017
17-EA-16	CFPB: Amendments to Rules Concerning Prepaid Accounts	6/29/2017
17-EA-17	CFPB: ATR/QM Rule Assessment	6/30/2017
17-EA-18	NCUA: OTR Methodology	7/10/2017
17-EA-19	DOL: Fiduciary Rule and Prohibited Transaction Exemptions	7/10/2017
17-EA-20	NCUA: Corporate Credit Unions	7/14/2017
17-EA-21	NCUA: Merger of Stabilization Fund and SIF	7/28/2017
17-EA-22	NCUA: Share Insurance Fund Equity Distributions	7/28/2017
17-EA-23	NCUA: Emergency Mergers	8/28/2017
17-EA-24	NCUA: Regulatory Reform Agenda	8/29/2017
17-EA-25	DOL: Overtime	8/30/2017
17-EA-26	CFPB: TRID	9/11/2017
17-EA-27	NCUA: Accuracy of Advertising and Notice of Insured Status	10/16/2017
17-EA-28	NCUA: Capital Planning and Supervisory Stress Testing	10/30/2017
17-EA-29	NCUA: Electronic Data Collection RFI	11/6/2017

NAFCU'S 2017 FINAL REGULATIONS

Number	Topic	Date Issued
17-EF-01	FHFA: Acquired Member Assets	1/12/2017
17-EF-02	FHFA: Duty to Serve Underserved Markets	1/18/2017
17-EF-03	FFIEC: CC Rating System	2/3/2017
17-EF-04	Federal Reserve: Availability of Funds and Collection of Checks	6/28/2017
17-EF-05	NCUA: Safe Harbor	7/13/2017
17-EF-06	CFPB: Arbitration Agreements	8/7/2017
17-EF-07	CFPB: TRID "Fix"	8/25/2017

17-EF-08	CFPB: Amendments to the 2015 HMDA Final Rule	9/29/2017
17-EF-09	Treasury: Federal Participation in Automated Clearing House	10/5/2017
17-EF-10	CFPB: Payday, Vehicle Title, and Certain High Cost Installment Loans	10/10/2017
17-EF-11	NCUA: Supervisory Review Committee Appeals	10/26/2017
17-EF-12	NCUA: Appeals Procedures	10/26/2017
17-EF-13	CFPB: Amendments to Regulation B	10/27/2017
17-EF-14	NCUA: Overhead Transfer Rate Methodology	11/21/2017
17-EF-15	NCUA: Corporate Credit Unions	12/6/2017