

Proposed Rules

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 715 and 741

Supervisory Committee Audits and Verifications

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The Credit Union Membership Access Act has amended certain audit and financial reporting requirements of the Federal Credit Union Act. The National Credit Union Administration solicits public comment on proposed rules implementing those amendments. The amendments specify the minimum annual audit a credit union is required to obtain according to its charter type and asset size, the licensing authority required of persons performing certain audits, the auditing principles which apply to certain audits, and the accounting principles which must be followed in reports filed with the NCUA Board.

DATES: Comments must be received on or before March 8, 1999.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand deliver comments to: National Credit Union Administration Board, 1775 Duke Street, Alexandria, VA 22314-3428. You may fax comments to (703) 518-6319. You may E-mail comments to boardmail@ncua.gov. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Karen Kelbly, Program Officer, Office of Examination and Insurance, at (703) 518-6360, or Steven W. Widerman, Trial Attorney, Office of General Counsel, at (703) 518-6540, at the above address.

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Supervisory Committee Audit Requirements

Two of the duties that § 115 of the Federal Credit Union Act (FCUA), 12 U.S.C. 1761d, imposes on the Supervisory Committee of a federally-insured credit union are: (1) to "make or cause to be made an annual audit" of the credit union; and (2) to "cause the passbooks and accounts of the members to be verified with the records of the treasurer from time to time, and not less frequently than once every two years." Current § 701.12 of NCUA's rules and regulations, 12 CFR 701.12, sets forth the Supervisory Committee's responsibilities in meeting the audit and verification requirements of FCUA 115.

Current § 701.12 requires a Supervisory Committee to perform, or engage another to perform an annual supervisory committee audit. The scope of the audit must include a level of audit testing based on the Supervisory Committee's assessment of control risk. § 701.12(c)(3). If the Committee engages an independent, compensated auditor to perform the credit union's audit, the terms and conditions must be memorialized in an engagement letter. § 701.12(d). Whether produced by the Committee itself or received from an independent auditor, a written report of the audit must be submitted to the board of directors and, upon request, to NCUA. § 701.12(e). The Committee is responsible for maintaining the audit working papers and/or ensuring that they will be accessible to NCUA. § 701.12(e). It also must conduct a verification of members' accounts against the records of the credit union using prescribed sampling methods. § 701.12(h). The requirements of § 701.12 apply to Federally-insured State-chartered credit unions ("FISCUS"), 12 CFR 741.202, both as a prerequisite for share insurance and under NCUA's administrative powers. 12 U.S.C. 1781(b)(9), 1789(a)(11). The NCUA may impose sanctions against a credit union which violates these audit rules. § 701.12(f).

Additional audit remedies are available against federal credit unions by statute, 12 U.S.C. 1782(a)(6)(A), as added by the Financial Institutions Reform, Recovery and Enforcement Act, Pub. L. No. 101-73, 103 Stat. 482 (1989).

Current § 701.13 of NCUA's rules and regulations, 12 CFR 701.13, establishes three conditions under which the NCUA Board may compel a federal credit union to use an outside, independent State-licensed auditor, § 701.13(a)(1)-(2). One of these conditions also may be the basis for compelling a federal credit union to obtain a financial statement audit (performed by an independent State-licensed auditor). § 701.13(a)(3), (b)-(c). These sanctions also are available against FISCUS under current § 701.12(f)(ii). NCUA is permitted to treat the failure to use an independent State-licensed auditor or to obtain a financial statement audit, when ordered to do so, as an unsafe and unsound practice for purposes of terminating the credit union's insurance. 12 U.S.C. 1782(a)(6)(B) and 1786(b).

B. New Statutory Audit Requirements

Section 201(a) of the Credit Union Membership Access Act (CUMAA), Pub. L. No. 105-219, 112 Stat. 918 (1998), has now added two new subsections to section 202(a)(6) of the FCUA, 12 U.S.C. 1782(a)(6)(C) and (D). Subsection (C) addresses accounting principles; it generally requires credit unions having assets of \$10 million or more to follow generally accepted accounting principles (GAAP) in all reports or statements filed with the NCUA Board.¹ 12 U.S.C. 1782(a)(6)(C). The NCUA Board, and State credit union supervisors under applicable statutes, are given the authority to require credit unions having less than \$10 million in assets to follow GAAP. 12 U.S.C. 1782(a)(6)(C)(iii).

Subsection (D) imposes audit requirements for large federally-insured credit unions—those having assets of \$500 million or more. A credit union at or above that level of assets, whether State- or Federally-chartered, is required to obtain an annual independent audit of its financial statements performed in accordance with generally accepted auditing standards (GAAS). Furthermore, that audit must be performed by an independent certified public accountant or public accountant licensed to do so by the appropriate State or jurisdiction. 12 U.S.C. 1782(a)(6)(D)(i). (This audit engagement is popularly termed an "opinion audit,"

¹In lieu of GAAP, the NCUA Board may prescribe "an accounting principle * * * that is no less stringent than [GAAP]." 12 U.S.C. 1782(a)(6)(C)(ii).

but is hereinafter referred to as a "financial statement audit.")

A federally-chartered credit union having total assets of less than \$500 million but more than \$10 million is subject to only one requirement under subsection (D). If that credit union elects to obtain the financial statement audit required of a credit union having assets of \$500 million or more, the audit must be performed consistent with the accountancy laws and licensing requirements of the appropriate State or jurisdiction.² 12 U.S.C. 1782(a)(6)(D)(ii). The appropriate State or jurisdiction normally will be the State in which the credit union is located.

Subsection (D) imposes no audit requirements on federally-chartered credit unions having total assets of less than \$500 million but more than \$10 million which *do not* voluntarily elect to obtain a financial statement audit performed in accordance with GAAS (as credit unions having assets of \$500 million or more *must* obtain under subsection (D)(i)). See § 715.2(f) (GAAS definition). Only in the case of a financial statement audit performed in accordance with GAAS, whether by choice or by law, do State accountancy laws and licensing requirements apply.³

² According to the CCH Accountancy Law Reporter, State-licensing requirements for persons who perform audits are as follows:

- 4 states permit anyone to render accounting and auditing services but restrict the use of the titles "Certified Public Accountant" (CPA) and Public Accountant (PA) to persons licensed as such (Arizona, Kansas, North Carolina, and Wyoming).
- 36 states have a "grandfathered" class of licensed accountants—non CPAs who were practicing public accounting on the effective date of their current accountancy laws.
- 10 states license a class of accountants in addition to CPAs variously entitled "accounting practitioner," "registered public accountant," "licensed public accountant," or "public accountants" (Delaware, Georgia, Indiana, Iowa, Maine, Montana, Oklahoma, Oregon, South Carolina, and Vermont).
- All 50 states allow unlicensed persons to provide the general public with a variety of accounting and bookkeeping services, including the preparation of financial statements without reports, provided that such individuals do not use certain titles, perform services prohibited by law, or otherwise hold themselves out as licensed by the State.

³ Section 202(a)(6)(D)(ii), 12 U.S.C. 1782(a)(6)(D)(ii), provides: "If a Federal credit union that is not required to conduct an audit under clause (i), and that has total assets of more than \$10,000,000 conducts *such an audit* for any purpose, using an independent auditor who is compensated for this or her audit services with respect to that audit, the audit shall be performed consistent with the accountancy laws of the appropriate State or jurisdiction, including licensing requirements." (emphasis added.) "Such an audit" refers back to "an audit under clause (i)" of section 202(a)(6)(D). A clause (i) audit is a financial statement audit performed in accordance with GAAS. The clause (ii) requirement to follow State accountancy and licensing laws is triggered

Subsection (D) is silent regarding audits of federally-chartered credit unions having assets of \$10 million or less, and FISCUs having assets of less than \$500 million.

The threshold set by subsection (D) at \$500 million for requiring a financial statement audit puts federally-insured credit unions in parity with other federally-insured depository institutions supervised by the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of Comptroller of the Currency, and the Federal Reserve Board are required to obtain a financial statement audit if they have assets of \$500 million or more.⁴ 12 CFR part 363. For institutions having assets of less than \$500 million, the Federal Financial Institutions Examination Council (FFIEC) recently proposed audit options identical or similar to those proposed here. FFIEC, *Policy Statement on External Auditing Programs of Banks and Savings Associations*, 63 FR 7796 (Feb. 17, 1998) (*FFIEC Policy Statement*).

II. Section-Within-Subject Analysis of Proposed Rule

For ease of access to the proposed rules implementing section 201 of CUMAA, NCUA has consolidated and restructured its current audit rule. Current sections 701.12 [supervisory committee audits and verifications] and 701.13 [requirements for an outside audit] have been eliminated and the surviving provisions of each have been combined in a proposed new Part 715 of NCUA's rules and regulations [supervisory committee audits and verifications], 12 CFR 715. Part 715 incorporates the statutory auditing requirements introduced in CUMAA. The references within section 741.202 have been revised to apply Part 715 to FISCUs. See 12 U.S.C. 1781(b)(9), 1789(a)(11) (application to FISCUs). Section 741.6 [financial and statistical and other reports], 12 CFR 741.6, remains intact but for the revision of Call Report filing dates in subsection (a) and the introduction of new subsections (b) and (c) requiring the use of GAAP in those reports.

only when a credit union voluntarily chooses a financial statement audit.

⁴ The statute authorizing 12 CFR 363, originally established a \$150 million asset floor for requiring a financial statement audit. 12 U.S.C. 1831m(j)(2). However, the banking agencies exercised their statutory authority to increase the asset floor to \$500 million, thereby exempting two-thirds of all institutions required under § 1831m to obtain a financial statement audit. 12 CFR 363.1(a); 58 FR 31332 (June 2, 1993).

A. Scope and Definitions

Section 715.1—Scope of This Part. For the convenience of the reader, this section provides a guide to what is, and is not, covered in proposed Part 715. Citations to statutory authority are included. This section makes clear that both the new and existing auditing regulations are combined within the scope of this Part. It directs the reader to Part 741.6 for regulations revising certain Call Report filing dates and mandating GAAP as the measurement requirement for Call Reports.

Section 715.2—Definitions Used In This Part. This section imports all of the defined terms from current § 701.12(a) that will be used in this Part. All but one of the imported definitions are virtually identical in form and substance to their predecessors. The exception is the definition of "State-licensed person" at § 715.2(k), which has been revised to reflect the statutory language in 12 U.S.C. 1782(a)(6)(D). Two new terms are introduced in this section which refer to new audit options in § 715.9(a)–(b)—"balance sheet audit" as defined at § 715.2(a), and "review and evaluation of internal controls" as defined at § 715.2(j). This section identifies alternative terms which are popularly used in place of defined technical terms, although popular terms are not used in this Part. See, e.g., § 715.2(d) and (l). In many instances within the substantive text of the rules a defined term is expanded to include a phrase from the definition of that term. The purpose of this is to reduce the need for readers to cross-reference this section for definitions when reading the substantive provisions of this Part.

B. Supervisory Committee Responsibilities

Section 715.3—General Responsibilities of the Supervisory Committee. This section divides the Supervisory Committee's responsibilities into three categories. Subsection (a) sets forth the Committee's two basic, overall duties—to ensure that required financial reporting objectives are met and safeguards are in place to protect members' assets. To carry out these basic responsibilities, subsection (b) sets forth four specific criteria which the Committee must oversee—internal controls, accurate preparation of records and reports, administration of plans, policies and control procedures, and the adequacy of those plans, policies and procedures to protect the credit union against wrongdoing. Finally, subsection (c) sets forth four specific actions the Supervisory Committee must take to

fulfill its responsibilities—ensure that management properly prepares and files reports with the NCUA Board (e.g., Forms 5300 and 5310 Call Reports per 12 CFR 741.6), obtain a supervisory committee audit annually, conduct a verification of members' passbooks and accounts, and ensure that the credit union complies with this Part. This section is similar in substance to current § 701.12(b) except for revisions to conform to the supervisory committee audit options in § 715.9(c).

Section 715.4—Audit Responsibility of the Supervisory Committee. This section sets forth the specific audit responsibilities of the Supervisory Committee of a federally insured credit union. Subsection (a), which restates the annual audit requirement in 12 U.S.C. 1761d, parallels current § 701.12(c)(1). Subsection (b) is the first of several places in this Part which point out that, regardless of the asset and charter criteria in the immediately following sections, a financial statement audit is always considered to fall within the definition of a supervisory committee audit, § 715.2(m), and if performed adequately, will always satisfy a credit union's audit responsibility. For those credit unions that do not choose to obtain a financial statement audit, subsection (c) introduces minimum audit requirements according to asset size and charter type. For the convenience of the reader, these are summarized in a diagram preceding § 715.5, the first of four sections setting forth minimum audit requirements.

C. Minimum Audit Requirements

Section 715.5—Audit of Federally-Insured Credit Unions Having Total Assets of \$500 Million or Greater. This section sets forth the new "large credit union audit requirement" imposed by CUMAA. 12 U.S.C. 1782(a)(6)(D)(i). Credit unions having total assets of \$500 million or greater, whether State- or Federally-chartered, must obtain a financial statement audit to satisfy their supervisory committee audit responsibility. By definition, a financial statement audit must be performed in accordance with GAAS, and must be performed by a person who is licensed to do so by an appropriate State or jurisdiction, *i.e.*, in which the credit union is located. This section imposes the single most significant revision to current § 701.12—establishing the financial statement audit as the minimum audit for large credit unions. The effect of this section is to codify the level of audit engagement that nearly all of the affected credit unions already obtain voluntarily.

Section 715.6—Audit of Federally-Insured State-Chartered Credit Unions Having Total Assets of Less Than \$500 Million. This section addresses Federally-insured State-chartered credit unions (FISCUs) only, which have total assets of less than \$500 million and thus are not considered to be "large credit unions" for purposes of § 715.4. CUMAA is silent regarding audits of credit unions in this category. Accordingly, this section provides that a FISCU having assets of less than \$500 million may fulfill its supervisory committee audit responsibility either by "obtain[ing] an annual supervisory committee audit as prescribed in section 715.9 or 715.4(b), or an audit as prescribed by the State or jurisdiction in which the credit union is located, whichever is more stringent."⁵ (Emphasis added.) Theoretically, this presents the FISCU with a choice among three audit options—a financial statement audit, one of the § 715.9 options, or a State-prescribed audit. Unless the credit union voluntarily chooses to obtain a financial statement audit, however, the result is effectively predetermined simply by whether the audit prescribed by State law or regulation is "more stringent" than that available under § 715.9(c).⁶

Section 715.7—Audit of Federally-Chartered Credit Unions Having Total

⁵ The doctrine of Federal preemption permits NCUA to establish *minimum* audit requirements for federally-insured credit unions, as § 715.9 does, which preempt *conflicting* audit requirements prescribed by State law or regulation. However, this does not preclude the States from imposing additional, non-conflicting audit requirements on FISCUs, making their audits "more stringent" than those NCUA prescribes.

For purposes of clarification to aid the reader, this preamble and proposed rule expressly references certain powers that Federal law and NCUA regulations grant to the States (or their credit union supervisors), *e.g.*, §§ 715.6, 741.6(b); 12 U.S.C. 1782(a)(6)(C)(iii). The absence of express reference to State powers elsewhere in this preamble and proposed rule does not diminish or preclude the power of States to act pursuant to State laws that do not conflict with Federal law or NCUA rules. *See, e.g.*, Colo. Rev. Stat. § 11-30-106(3); Wash. Rev. Code § 31.12.569 (authorizing State supervisory authority to require FISCUs to follow GAAP or other standards).

⁶ NCUA does not define "stringent" except to suggest that it might involve enhanced audit scope and depth. "Stringent" is not defined in 12 U.S.C. 1782(a)(6)(C)(iii), which refers to an accounting principle that is "no less stringent" than GAAP.

In comparison to NCUA's current supervisory committee audit rule, § 701.12, State-prescribed audits for credit unions generally fall into three categories: (1) States which prescribe audits substantially similar to 12 U.S.C. 1761d and/or § 701.12; (2) States which prescribe audits which differ in some respects from 12 U.S.C. 1761d and/or § 701.12, but which are not necessarily "more stringent," including four States which determine the type of audit by asset size, *e.g.*, Mich. Comp. Laws § 490.11(2); and (3) States in which a financial statement audit is prescribed for certain credit unions.

Assets of Less Than \$500 Million But More Than \$10 Million. This section addresses Federally-chartered credit unions only, which have total assets of less than \$500 million but more than \$10 million. It provides that a credit union which does not choose to obtain a financial statement audit under § 715.4(b) must obtain a supervisory committee audit under § 715.9. Credit unions in this category are allowed to voluntarily obtain a financial statement audit. If a credit union voluntarily chooses to obtain a financial statement audit, the audit must be performed consistent with the accountancy laws and licensing requirements of the State in which the credit union is located. *See supra* note 3 and accompanying text. By its terms, this is the only requirement that 12 U.S.C. 1782(a)(6)(D)(ii) imposes on credit unions in this category. Nothing in that provision restricts a credit union from using the alternatives to a financial statement audit that are available in § 715.9.

Section 715.8—Audit of Federally-Chartered Credit Unions Having Less Than \$10 Million. CUMAA is silent about audits of federally-chartered credit unions having less than \$10 million in assets. Accordingly, this section requires credit unions in this category to obtain a supervisory committee audit under § 715.9.

Section 715.9—Supervisory Committee Audit Requirements If Not A Financial Statement Audit. This section applies to federally-insured credit unions that are not required, and have not chosen, to obtain a financial statement audit. Three options are provided for credit unions in this category to fulfill their supervisory committee audit responsibility, two of which are analogous to options proposed by the FFIEC for other Federally-insured financial institutions.

The first option is an "opinion on the balance sheet" of the credit union. § 715.9(a). Like a financial statement audit, this engagement must be performed in accordance with GAAS by a person who is licensed by State law to do so. This engagement consists of an examination of assets, liabilities and equity and requires an opinion by the auditor on the fairness of the balance sheet only. (In contrast, a financial statement audit requires an opinion addressing additional financial statements such as the income statement, statement of changes in equity (including comprehensive income) and statement of cash flows.) This option is identical to that of the same name proposed by the FFIEC. *FFIEC Policy Statement*, 63 FR at 7797, 7800.

The second option is a "review and evaluation of internal controls over Call Reporting," § 715.9(b), which is available to all credit unions but those deemed "complex" under 12 U.S.C. 1790d(d)(1) for purposes of prompt corrective action.⁷ This engagement consists of an examination of management's written assertions concerning the effectiveness of internal controls over data reported in Call Reports (NCUA Form 5300) which addresses the following high risk areas: loans, investments, and cash and deposit activity. The result of this engagement is a report by the auditor on management's assertions on the effectiveness of internal controls on the data limited to these high risk areas. This option is comparable to the FFIEC-proposed option of an "attestation report on internal control assertions." 63 FR at 7797, 7800.

The principal difference between NCUA's "review and evaluation of internal controls over Call Reporting" and FFIEC's "attestation report on internal control assertions" concerns who is qualified to perform the engagement. NCUA's "review and evaluation" may be performed by an independent, State-licensed person or other "qualified person" unless the credit union is deemed "complex" under 12 U.S.C. 1790d(d)(1) (in which case *only* an independent, State-licensed person may perform the engagement). In contrast, FFIEC's "attestation report" option always must be performed by an independent, State-licensed person. The reason for relaxing the level of qualification for persons performing NCUA's "review and evaluation of internal controls over Call Reporting" is that its scope is far narrower than that of FFIEC's "attestation report." The NCUA "review and evaluation" is limited to certain data reported in three Call Report schedules—that which concerns loans, investments, and cash and deposit activity. In contrast, FFIEC's "attestation report" goes much further—it encompasses "all or specified schedules of the institution's regulatory reports" concerning loans and lease financing receivables; past due and nonaccrual loans, leases, and other assets; allowance for credit losses; securities; and in some cases trading assets and liabilities and off-balance sheet items. 63 FR 7800. Accordingly, for a credit union which is not deemed "complex,"

NCUA permits a "review and evaluation of internal controls over Call Reporting" to be performed by a "qualified person," which includes the Supervisory Committee itself, the credit union's internal auditor (provided that person reports directly to the Committee), or by an independent, State-licensed person.⁸

The final option offered by NCUA is the audit program prescribed in NCUA's *Supervisory Committee Guide (Guide)*, as revised to conform to Part 715. § 715.9(c). This engagement is similar to a "Directors' Examination" used by some Federally-insured banks. Like the "review and evaluation of internal controls over Call Reporting," a *Guide* engagement may be performed by an independent, State-licensed person or other "qualified person." The *Guide* will be amended to detail the minimum scope and procedures of the engagement, and to clearly distinguish a *Guide* engagement from a financial statement audit engagement.

Credit unions having assets of \$500 million or more now *must* obtain a financial statement audit, and June 1998 NCUA Call Report data shows that 80% of Federally-insured credit unions above \$50 million in assets already do so by choice. NCUA encourages all credit unions, regardless of asset size, to obtain financial statement audits,⁹ but recognizes that financial statement audits may not be practical for all credit unions. Accordingly, NCUA seeks to preserve less burdensome audit alternatives for credit unions which do not obtain financial statement audits. NCUA believes this section accomplishes that objective without compromising the Supervisory Committee's ability to carry out its oversight responsibilities.

This section is a significant departure from the supervisory committee audit standards and scope set forth in current section 701.12(c). But it is consistent with the overall objective of proposed Part 715 to clearly delineate the

⁸ Because there are no specific standards to follow in a "review and evaluation of internal controls over Call Reporting," this engagement is subject to an NCUA examiner's finding that the auditor's report is unacceptable on a subjective basis due to, for example, insufficient scope or depth. In that event, the credit union may be required by NCUA to have its audit re-done, either by the same person or by an independent State-licensed person, or to obtain a financial statement audit engagement. §§ 715.13(a)(2), 715.14.

⁹ Credit unions (through their voluntary boards of directors) should recognize that they will receive greater degree of comfort from a financial statement audit performed by a State-licensed person who must follow specific auditing standards, is subject to peer reviews (available for inspection prior to hiring a licensed auditor), and is required to satisfy continuing education requirements in order to remain licensed.

differences in scope, and therefore in burden, between a financial statement audit—which is warranted for large credit unions—and the alternatives for a supervisory committee audit, which are suited to credit unions of moderate and smaller size.

D. Verification of Accounts

Section 715.10—Requirements for Verification of Accounts and Passbooks. As mandated by 12 U.S.C. 1761d, this section requires the Supervisory Committee to conduct a verification of the passbooks and accounts of the members against the records of the credit union at least once every two years. This section is identical to current § 701.12(h) except that it has been restructured and reworded to enhance clarity.

E. Other Audit Requirements

Section 715.11—Assistance From Outside Compensated Person. This section sets the independence and engagement letter requirements that are triggered when the Supervisory Committee engages an outside person who is compensated to perform, or to assist in the performance of, a supervisory committee audit under this Part. Subsection (a), which concerns the auditor's independence from credit union officials, is identical in substance to current § 701.12(g), but has been reworded to enhance clarity and eliminate the need to cross-reference the "Definitions" section of this Part. Subsection (b) sets forth the general requirement for an engagement letter between the Supervisory Committee and the outside auditor memorializing the terms and conditions of the audit engagement. It is identical to current § 701.12(d)(1), except that a sentence has been relocated to this section to emphasize that "the engagement must be contracted directly with the Supervisory Committee." The purpose of this addition is to clarify that the engagement must be with the Supervisory Committee, not the credit union's board of directors or management. However, this does not preempt State laws requiring the board of directors to authorize compensation for auditing assistance sought by the Supervisory Committee. See, e.g., Colo. Rev. Stat. § 11-30-109(1)(i). Subsection (c) sets forth the required contents of an engagement letter; it retains all eight items in current § 701.12(d)(i)-(viii) with minor revisions to conform to § 715.9.

Subsections (d) and (e) together retain an innovation from current § 701.12(d)(2)-(3) that has effectively solved the problem of after-the-fact

⁷ NCUA is required to adopt rules defining a "complex" credit union for prompt corrective action purposes no later than August 7, 2000, to become effective January 1, 2001. CUMAA § 301(d)(2)(B) and (e)(2).

disputes between the credit union and its outside auditor over which components of an audit were to be included in the engagement, and which were to be excluded. Thus, subsection (d) requires that the auditor give notice in the engagement letter when all items within the scope of an audit will be addressed in the engagement, thus yielding a complete supervisory committee audit under § 715.9(b) or (c). Conversely, subsection (e) requires the engagement letter to identify any items that will be excluded from the engagement, and which will render the supervisory committee audit incomplete unless the Supervisory Committee itself addresses the excluded items.

Section 715.12—Audit Report and Working Paper Maintenance and Access. This section combines two sets of requirements—the procedure for distributing the audit report produced either by the Supervisory Committee or by an outside person who performed the audit, and the responsibility for maintenance of, and access to, the auditor's "working papers" once the engagement is complete. Subsection (a), which concerns distribution of the audit report, is identical to current § 701.12(e)(1) with a single exception—it expressly states that credit union members must be provided with a report of the results of an audit (which can be oral or written) if not with a copy of the audit report itself. This revision conforms to 12 U.S.C. 1761d and reflects current practice. It is consistent with the view that most members are interested in the results of the audit, but not in receiving a report of the audit. Subsection (b), which concerns maintenance and access to audit working papers, is identical in form and substance to current § 701.12(e)(2).

F. Sanctions and Remedies

Section 715.13—Sanctions For Failure To Comply With This Part. This section imposes sanctions when a Supervisory Committee or its independent compensated auditor violates a provision of this Part or of an engagement letter prescribed by this Part. A Regional Director is permitted to reject an audit or to impose the same conditions on the audit as § 715.4 prescribes, and the NCUA Board is permitted to seek formal administrative sanctions such as a cease and desist order or a civil money penalty. This section is identical in form and substance to current § 701.12(f).

Section 715.14—Statutory Audit Remedies for Federal Credit Unions. This section provides the NCUA Board with a pair of additional remedies which, if certain conditions are met,

apply to federally-chartered credit unions by statute, 12 U.S.C. 1782(a)(6)(A), and to State-chartered credit unions by regulation. § 701.13(a)(2). The remedies are the authority to compel a credit union in this category to have its audit performed by a State-licensed person, § 715.14(a), or to compel the credit union to obtain a financial statement audit even when it is not otherwise required to do so. § 715.14(b). This section is identical to current § 701.13, with two exceptions. First, subsection (b), which makes "serious and persistent recordkeeping deficiencies" a basis for compelling a credit union to obtain a financial statement audit, now includes a sentence describing the objective of such an audit: "to reconstruct the records of the credit union sufficient to allow an unqualified or, if necessary, a qualified opinion on the credit union's financial statements. An adverse opinion should be the exception rather than the norm." Second, subsection (c), which defines "serious and persistent recordkeeping deficiencies," is restructured to define "serious" and "persistent" separately.

G. Call Reporting Requirements

Section 741.6—Financial and Statistical and Other Reports. This section sets deadlines for filing Call Reports with NCUA. The proposed rule revises filing dates in subsection (a), adds two new subsections (b) and (c), and redesignates current subsection (b) as a new subsection (d). In subsection (a), the filing dates for semiannual Call Reports are changed from "on or before January 31 and on or before July 31" to "on or before January 22 and on or before July 22," respectively, to reflect current practice. New subsection (b) incorporates accounting principles mandated by 12 U.S.C. 1782(a)(6)(C) for reports or statements required to be filed with the NCUA Board under subsection (a). Call Reports filed by credit unions having assets of \$10 million or more now must adhere to measurement principles consistent with GAAP. 12 U.S.C. 1782(a)(6)(C)(i); *see also supra* note 1. This includes Call Reports filed by corporate credit unions. State credit union supervisors may require Federally-insured State-chartered credit unions to follow GAAP regardless of asset size. 12 U.S.C. 1782(a)(6)(C)(iii); *see supra* note 7 and accompanying text. For the convenience of affected credit unions, subsection (c) cross-references the definition of GAAP at § 715.2(d), distinguishes GAAP from GAAS, and identifies authoritative sources for the pronouncements of GAAP.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The NCUA Board has determined and certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Thus, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The Paperwork Reduction Act imposes no additional information collection requirements beyond those in the current rule. Therefore, no Paperwork Reduction Act analysis is required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed amendment will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of rights and responsibilities among the various levels of government.

List of Subjects

12 CFR Parts 701 and 741

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 715

Audits, Credit unions, Reporting and recordkeeping requirements, Supervisory committee.

By the National Credit Union Administration Board on December 17, 1998.

Becky Baker,

Secretary of the Board.

Accordingly, it is proposed that 12 CFR, parts 701, 715 and 741 be amended as set forth below:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and 1798. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601-3610. Section 701.35 is also authorized by 42 U.S.C. 4311-4312.

§§ 701.12 and 701.13 [Removed]

2. Sections 701.12 and 701.13 are removed.

3. Part 715 is added to read as follows:

PART 715—SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS

Sec.

- 715.1 Scope of this part.
 715.2 Definitions used in this part.
 715.3 General responsibilities of the Supervisory Committee.
 715.4 Audit responsibility of the Supervisory Committee.
 715.5 Audit of Federally-insured credit unions having total assets of \$500 million or greater.
 715.6 Audit of Federally-insured State-chartered credit unions having total assets of less than \$500 million.
 715.7 Audit of Federally-chartered credit unions having total assets of less than \$500 million but more than \$10 million.
 715.8 Audit of Federally-chartered credit unions having total assets of \$10 million.
 715.9 Other Supervisory Committee audit requirements if not financial statement audit.
 715.10 Requirements for verification of accounts and passbooks.
 715.11 Assistance from outside, compensated person.
 715.12 Audit report and working paper maintenance and access.
 715.13 Sanctions for failure to comply with this part.
 715.14 Statutory audit remedies for Federal credit unions.

Authority: 12 U.S.C. 1761d, 1782(a)(6).

§ 715.1 Scope of this part.

This part implements section 202(a)(6)(D) of the Federal Credit Union Act, 12 U.S.C. 1782(a)(6)(D), as added by section 201(a) of the Credit Union Membership Access Act, Pub. L. No. 105-219, 112 Stat. 918 (1998). This part prescribes the responsibilities of the Supervisory Committee to obtain an annual audit of the credit union according to its charter type and asset size, and to conduct a verification of members' accounts. Revised filing dates and required accounting principles for Call Reports (NCUA Forms 5300 and 5310) can be found in § 741.6 of this chapter.

§ 715.2 Definitions used in this part.

As used in this part:

(a) *Balance sheet audit* refers to the examination of a credit union's assets, liabilities, and equity under generally accepted auditing standards (GAAS) by an independent public accountant for the purpose of opining on the fairness of the presentation on the balance sheet. The opinion under this type of engagement would not address the fairness of the presentation of the credit

union's income statement, statement of changes in equity (including comprehensive income), or statement of cash flows.

(b) *Compensated person* refers to any accounting/auditing professional, excluding a credit union employee, who is compensated for performing more than one supervisory committee audit and/or verification of members' accounts per calendar year.

(c) *Financial statements* refers to a presentation of financial data, including accompanying notes, derived from accounting records of the credit union, and intended to disclose a credit union's economic resources or obligations at a point in time, or the changes therein for a period of time, in conformity with GAAP, as defined herein, or regulatory accounting procedures. Each of the following is considered to be a financial statement: a balance sheet or statement of financial condition; statement of income or statement of operations; statement of undivided earnings; statement of cash flows; statement of changes in members' equity; statement of assets and liabilities that does not include members' equity accounts; statement of revenue and expenses; and statement of cash receipts and disbursements.

(d) *Financial statement audit* (popularly known as an "opinion audit") refers to an audit of the financial statements of a credit union performed in accordance with GAAS by an independent auditor who is licensed by the appropriate State or jurisdiction. The objective of a financial statement audit is to express an opinion as to whether those financial statements of the credit union present fairly, in all material respects, the financial position and the results of its operations and its cash flows in conformity with GAAP, as defined herein, or regulatory accounting practices.

(e) *GAAP* is an acronym for "generally accepted accounting principles" which refers to the conventions, rules, and procedures which define accepted accounting practice. GAAP includes both broad general guidelines and detailed practices and procedures, provides a standard by which to measure financial statement presentations, and encompasses not only accounting principles and practices but also the methods of applying them.

(f) *GAAS* is an acronym for "generally accepted auditing standards" which refers to the standards approved and adopted by the American Institute of Certified Public Accountants which apply when an "independent, licensed certified public accountant" audits

financial statements. Auditing standards differ from auditing procedures in that "procedures" address acts to be performed, whereas "standards" measure the quality of the performance of those acts and the objectives to be achieved by use of the procedures undertaken. In addition, auditing standards address the auditor's professional qualifications as well as the judgment exercised in performing the audit and in preparing the report of the audit.

(g) *Independent* means the impartiality necessary for the dependability of the compensated auditor's findings. Independence requires the exercise of fairness toward credit union officials, members, creditors and others who may rely upon the report of a supervisory committee audit report.

(h) *Internal controls* refers to the process, established by the credit union's board of directors, officers and employees, designed to provide reasonable assurance of reliable financial reporting and safeguarding of assets against unauthorized acquisition, use, or disposition. A credit union's internal control structure consists of five components: control environment; risk assessment; control activities; information and communication; and monitoring. Reliable financial reporting refers to preparation of Call Reports (NCUA Forms 5300 and 5310) that meet management's financial reporting objectives. Internal control over safeguarding of assets against unauthorized acquisition, use, or disposition refers to prevention or timely detection of transactions involving such unauthorized access, use, or disposition of assets which could result in a loss that is material to the financial statements.

(i) *Reportable conditions* refers to a matter coming to the attention of the independent, compensated auditor which, in his or her judgment, represents a significant deficiency in the design or operation of the internal control structure of the credit union, which could adversely affect its ability to record, process, summarize, and report financial data consistent with the representations of management in the financial statements.

(j) *Review and evaluation of internal controls over Call Reporting* refers to an engagement under which management reviews its internal controls over Call Reporting with a concentration in the following high risk areas: loans, investments and cash and deposit activity, and documents its review. Management would then provide a written assertion stating whether it

believes its internal controls are effective. The credit union's auditor would examine management's assertion and provide an appropriate report assessing that assertion.

(k) *State-licensed person* refers to a person who is licensed by the State or jurisdiction where the credit union is located to perform accounting or auditing services for that credit union.

(l) *Supervisory committee* refers to a supervisory committee as defined in Section 111(b) of the Federal Credit Union Act, 12 U.S.C. 1786(r). For some federally-insured state chartered credit unions, the "audit committee" designated by state statute or regulation is the equivalent of a supervisory committee.

(m) *Supervisory committee audit* refers to an examination under either § 715.4(b) or § 715.9 of this part. An financial statement audit, as defined herein, fulfills the requirements of a "supervisory committee audit."

(n) *Working papers* refers to the principal record, in any form, of the work performed by the auditor and/or supervisory committee to support its findings and/or conclusions concerning significant matters. Examples include the written record of procedures applied, tests performed, information obtained, and pertinent conclusions reached in the engagement, proprietary audit programs, analyses, memoranda, letters of confirmation and representation, abstracts of credit union documents, reviewer's notes, if retained, and schedules or commentaries prepared or obtained by the independent, compensated auditor.

§ 715.3 General responsibilities of the supervisory committee.

(a) *Basic.* The supervisory committee is responsible for ensuring that the board of directors and management of the credit union meet required financial reporting objectives and establish practices and procedures sufficient to safeguard members' assets.

(b) *Specific.* To carry out the responsibilities set forth in paragraph (a) of this section, the supervisory committee must determine whether:

(1) Internal controls are established and effectively maintained to achieve the credit union's financial reporting objectives which must be sufficient to satisfy the requirements of the supervisory committee audit, verification of members' accounts and its additional responsibilities;

(2) The credit union's accounting records and financial reports are promptly prepared and accurately reflect operations and results;

(3) The relevant plans, policies, and control procedures established by the board of directors are properly administered; and

(4) Policies and control procedures are sufficient to safeguard against error, conflict of interest, self-dealing and fraud.

(c) *Mandates.* In carrying out the responsibilities set forth in paragraphs (a) and (b) of this section, the supervisory committee must:

(1) Adhere to the measurement and filing requirements for reports filed with the NCUA Board under § 741.6;

(2) Ensure that the credit union fulfills its responsibility to obtain a supervisory committee audit, as prescribed in § 715.4 of this part;

(3) Ensure that the credit union verifies members' passbooks and

accounts against the records of the credit union, as prescribed in § 715.10 of this part;

(4) Act to avoid sanctions for failure to comply with the requirements of this part, as prescribed in §§ 715.13 and 715.14 of this part.

§ 715.4 Audit responsibility of the supervisory committee.

(a) *Annual audit requirement.* A federally-insured credit union is required to obtain an annual supervisory committee audit which occurs at least once every calendar year (period of performance) and must cover the period elapsed since the last audit period (period effectively covered).

(b) *Financial statement audit option.* Any federally-insured credit union, whether federally- or State-chartered and regardless of asset size, may choose to fulfill its supervisory committee audit responsibility by obtaining an annual audit of its financial statements performed in accordance with GAAS by an independent person who is licensed to do so by the State or jurisdiction in which the credit union is located. (A "financial statement audit" is distinct from a "supervisory committee audit," although a financial statement audit is included among the options for fulfilling the supervisory committee audit requirement. Compare § 715.2(c) and (j).)

(c) *Other audit options.* A federally-insured credit union which does not choose to obtain a financial statement audit as permitted by subsection (b) must fulfill its supervisory audit responsibility under either of §§ 715.6, 715.7 or 715.8 of this part, as required. See Table 1.

TABLE 1.—MINIMUM AUDIT REQUIREMENTS BY CHARTER TYPE AND ASSET SIZE

Type of charter	Asset size	Minimum audit required to fulfill supervisory committee audit responsibility ¹	Part 715 section
Federal or State	\$500 Million or more	Financial statement audit per GAAS by independent, State-licensed person.	715.5
State	Less than \$500 Million	Supervisory committee audit per § 715.9 or State-prescribed audit, whichever is more stringent.	715.6
Federal	Less than \$500 Million but greater than \$10 Million.	Supervisory committee audit per § 715.9	715.7
Federal	\$10 Million or less	Supervisory committee audit per § 715.9	715.8

¹ The Supervisory Committee audit responsibility under part 715 can always be fulfilled by obtaining a financial statement audit. § 715.4(b).

§ 715.5 Audit of federally-insured credit unions having total assets of \$500 million or greater.

To fulfill its supervisory committee audit responsibility, a federally-insured credit union, whether federally- or State-chartered, having total assets of \$500 million or greater must obtain an

annual audit of its financial statements performed in accordance with GAAS by an independent person who is licensed to do so by the State or jurisdiction in which the credit union is located.

§ 715.6 Audit of federally-insured State-chartered credit unions having total assets of less than \$500 million.

To fulfill its supervisory committee audit responsibility, a federally-insured State-chartered credit union having total assets of less than \$500 million must obtain an annual supervisory committee

audit as prescribed under either § 715.9 or § 715.4(b), or an audit as prescribed by the State or jurisdiction in which the credit union is located, whichever is more stringent.

§ 715.7 Audit of federally-chartered credit unions having total assets of less than \$500 million but more than \$10 million.

To fulfill its supervisory committee audit responsibility, a federally-chartered credit union having total assets of less than \$500 million but more than \$10 million which does not choose to obtain an audit under § 715.4(b), must obtain an annual supervisory committee audit as prescribed in § 715.9.

§ 715.8 Audit of federally-chartered credit unions having total assets of \$10 million or less.

To fulfill its supervisory committee audit responsibility, a federally-chartered credit union having total assets of \$10 million or less must obtain an annual supervisory committee audit as prescribed in § 715.9.

§ 715.9 Other Supervisory Committee audit requirements if not a financial statement audit.

A credit union which is not required to obtain a financial statement audit may fulfill its supervisory committee responsibility by having its Supervisory Committee or other qualified person perform any one of the following engagements:

(a) *Balance sheet audit.* A balance sheet audit, as defined by § 715.2(a), performed by a person who is licensed to do so by the State or jurisdiction in which the credit union is located; or

(b) *Review and evaluation of internal controls over call reporting.* A "review and evaluation of internal controls over Call Reporting" (NCUA Form 5300), as defined in § 715.2(j) (except that this engagement may be performed only by an independent, State-licensed person if the credit union is deemed "complex" pursuant to 12 U.S.C. 1790d(d)(1)); or

(c) *Audit per supervisory committee Guide.* An audit performed in accordance with the procedures prescribed in NCUA's Supervisory Committee Guide published after final adoption of this part.

§ 715.10 Requirements for verification of accounts and passbooks.

(a) *Verification obligation.* The supervisory committee shall, at least once every two years, cause the passbooks (including any book, statements of account, or other record approved by the NCUA Board) and accounts of the members to be verified

against the records of the treasurer of the credit union.

(b) *Methods.* Any of the following methods may be used to verify members' passbooks and accounts, as appropriate:

(1) *Controlled verification.* A controlled verification of 100 percent of members' share and loan accounts;

(2) *Statistical method.* A sampling method which provides for:

(i) Random selection;

(ii) A sample which is representative of the population from which it was selected;

(iii) An equal chance of selecting each dollar in the population;

(iv) Sufficient accounts in both number and scope to provide assurance that the General Ledger accounts are fairly stated to meet management's financial reporting objectives; and

(v) Additional procedures to be performed if the auditor concludes that evidence provided by confirmations alone is not sufficient.

(3) *Non-statistical method.* When the verification is performed by an independent auditor licensed by the State or jurisdiction in which the credit union is located, the auditor may choose among the sampling methods set forth in paragraphs (b)(1) and (2) of this section and non-statistical sampling methods consistent with GAAS if such methods provide for:

(i) Sufficient accounts in both number and scope to provide assurance that the General Ledger accounts are fairly stated in relation to the financial statements taken as a whole;

(ii) Additional procedures to be performed if the auditor concludes that evidence provided by confirmations alone is not sufficient; and

(iii) Documentation of the sampling procedures used and of their consistency with GAAS (to be provided to the NCUA Board upon request).

(c) *Retention of records.* The supervisory committee must retain the records of each verification of members' passbooks and accounts until it completes the next verification of members' passbooks and accounts.

§ 715.11 Assistance from outside, compensated person.

(a) *Unrelated to officials.* A compensated auditor who performs a supervisory committee audit on behalf of a credit union shall not be related by blood or marriage to any employee, or member of either the board of directors, the supervisory committee or the credit committee, or loan officer of that credit union, or to the spouse, child, parent, grandchild, grandparent, brother or sister of such employee, member or officer.

(b) *Engagement letter.* The engagement of a compensated auditor to perform all or a portion of the scope of a financial statement audit or supervisory committee audit shall be evidenced by an engagement letter. In all cases, the engagement must be contracted directly with the supervisory committee. The engagement letter must be signed by the compensated auditor and acknowledged therein by the Supervisory Committee prior to commencement of the engagement.

(c) *Contents of letter.* The engagement letter shall:

(1) Specify the terms, conditions, and objectives of the engagement;

(2) Identify the basis of accounting to be used;

(3) If not a financial statement audit or balance sheet audit, include an appendix setting forth the procedures to be performed;

(4) Specify the rate of, or total, compensation to be paid for the audit;

(5) Provide that the auditor shall, upon completion of the engagement, deliver to the Supervisory Committee a written report of the audit and notice in writing, either within the report or communicated separately, of any internal control reportable conditions and/or irregularities or illegal acts, if any, which come to the auditor's attention during the normal course of the audit (i.e., no notice required if none noted);

(6) Specify a target date of delivery of the written reports;

(7) Certify that NCUA staff and/or the State credit union supervisor, or designated representatives of each, will be provided unconditional access to the complete set of original working papers, either at the offices of the credit union or at a mutually agreed upon location, for purposes of inspection; and

(8) Acknowledge that working papers shall be retained for a minimum of three years from the date of the written audit report.

(d) *Complete scope.* If the engagement is to perform a supervisory committee audit that will address all of the requirements of § 715.9(b) or (c), the engagement letter shall certify that the audit addresses the complete scope of a supervisory committee audit.

(e) *Exclusions from scope.* If the engagement is to perform a supervisory committee audit which will exclude any item required by § 715.9(b) or (c), the engagement letter shall:

(1) Identify the excluded items;

(2) State that, because of the exclusion(s), the resulting audit will not, by itself, fulfill the scope of a supervisory committee audit; and

(3) Caution that the supervisory committee will remain responsible for fulfilling the scope of a supervisory committee audit with respect to the excluded items.

§ 715.12 Audit report and working paper maintenance and access.

(a) *Audit report.* Upon completion and/or receipt of the written report of a financial statement audit or a supervisory committee audit, the Supervisory Committee must verify that the audit was performed and reported in accordance with the terms of the engagement letter prescribed herein. The Supervisory Committee must submit the report(s) to the board of directors, and submit a report of the results of the audit to the members of the credit union at the next annual meeting of the credit union. The Supervisory Committee shall, upon request, provide to the National Credit Union Administration a copy of each of the audit reports it receives or produces.

(b) *Working papers.* The supervisory committee shall be responsible for preparing and maintaining, or making available, a complete set of original working papers supporting each supervisory committee audit. The supervisory committee shall, upon request, provide NCUA staff unconditional access to such working papers, either at the offices of the credit union or at a mutually agreeable location, for purposes of inspecting such working papers.

§ 715.13 Sanctions for failure to comply with this part.

(a) *Sanctions.* Failure of a supervisory committee and/or its independent compensated auditor or other person to comply with the requirements of this section, or the terms of an engagement letter required by this section, is grounds for:

(1) The regional director to reject the supervisory committee audit;

(2) The regional director to impose the remedies available in § 715.14 of this part, 12 CFR 715.14, provided any of the conditions specified therein is present; and

(3) The NCUA Board to seek formal administrative sanctions against the supervisory committee and/or its independent, compensated auditor pursuant to section 206(r) of the Federal Credit Union Act, 12 U.S.C. 1786(r).

(b) *State charters.* In the case of a federally-insured State-chartered credit union, NCUA shall provide the state regulator an opportunity to timely impose a remedy satisfactory to NCUA before seeking to impose a sanction

permitted under paragraph (a) of this section.

§ 715.14 Statutory audit remedies for Federal credit unions.

(a) *Independent auditor required.* The NCUA Board may compel a federal credit union to obtain a supervisory committee audit which meets the minimum requirements of § 715.4(c), and which is performed by an independent person who is licensed by the State or jurisdiction in which the credit union is located, for any fiscal year in which any of the following three conditions is present:

(1) The supervisory committee has not obtained an annual financial statement audit or performed a supervisory committee audit; or

(2) The supervisory committee has obtained a financial statement audit or performed a supervisory committee audit which does not meet the requirements of part 715 including those of § 715.10.

(3) The credit union has experienced serious and persistent recordkeeping deficiencies as defined in paragraph (c) of this section.

(b) *Financial statement audit required.* The NCUA Board may compel a federal credit union to obtain a financial statement audit performed in accordance with GAAS by an independent person who is licensed by the State or jurisdiction in which the credit union is located (even if such audit is not required by section 715.5), for any fiscal year in which the credit union has experienced serious and persistent recordkeeping deficiencies as defined in paragraph (c) of this section. The objective of a financial statement audit performed under this subsection is to reconstruct the records of the credit union sufficient to allow an unqualified or, if necessary, a qualified opinion on the credit union's financial statements. An adverse opinion should be the exception rather than the norm.

(c) *"Serious and persistent recordkeeping deficiencies."* A recordkeeping deficiency is "serious" if the NCUA Board reasonably believes that the board of directors and management of the credit union have not timely met financial reporting objectives and established practices and procedures sufficient to safeguard members' assets. A serious recordkeeping deficiency is "persistent" when it continues beyond a usual, expected or reasonable period of time.

PART 741—REQUIREMENTS FOR INSURANCE

4. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, and 1781-1790. Section 741.4 is also authorized by 31 U.S.C. 3717.

5. Section 741.6 is amended to change the phrase in paragraph (a) from "before January 31 and on or before July 31" to "before January 22 and on or before July 22"; and to redesignate paragraph (b) as paragraph (d) and to add paragraphs (b) and (c) to read as follows:

§ 741.6 Financial and statistical and other reports.

* * * * *

(b) *Consistency with GAAP.* The financial statements and reports required to be filed quarterly or semiannually under paragraph (a) of this section must reflect measurement principles consistent with GAAP if the credit union has total assets of \$10 Million or greater, but may reflect measurement principles which differ from GAAP if the credit union has total assets of less than \$10 Million (except that a Federally-insured State-chartered credit union may be required by its state credit union supervisor to follow GAAP regardless of asset size).

(c) *GAAP sources.* GAAP means generally accepted accounting principles, as defined in § 715.2(e) of this chapter. GAAP is distinct from GAAS, which means generally accepted auditing standards, as defined in § 715.2(f) of this chapter. Authoritative sources of GAAP include, but are not limited to, pronouncements of the Financial Accounting Standards Board (FASB) and its predecessor organizations, the Accounting Standards Executive Committee (AcSEC) of the American Institute of Certified Public Accountants (AICPA), the FASB's Emerging Issues Task Force (EITF), and the applicable AICPA Audit and Accounting Guide.

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§ 741.202 [Amended]

6. Section 741.202 is amended to change: the references in paragraph (a) from "§§ 701.12 and 701.13" to "§ 715.2 through § 715.6 and § 715.9 through § 715.14"; to add at the ending of paragraph (a) after "of this chapter" the phrase "or applicable state law, if more stringent."; and to change references in paragraph (b) from "§§ 701.12(e) and 701.13" to "§§ 715.10, 715.13, and 715.14".

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