

under the CU SIP and the CU HARP from an FCU's total assets for purposes of calculating its operating fee. Specifically, the Board is excluding, from the calculation of total assets, the asset that is created on the books of a natural person federal credit union when it makes a CU SIP or CU HARP related investment in a corporate credit union. Under this proposed rule, participating FCUs would continue to calculate their total assets in the same manner, except they would not include the dollar amount of any outstanding CU SIP or CU HARP investments in the calculation. This amendment would insure an increase in operating fees would not deter FCUs from participating in the programs. Because the operating fee is based on an FCU's total assets as of the close of the previous fiscal year and funding for the CU SIP and CU HARP took place after January 1, 2009, the amendments made in this rule will not affect the computation of the operating fee until 2010.

## Regulatory Procedures

### Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under \$10 million in assets). This proposed rule revises the calculation of total assets for purposes of the assessment of the FCU operating fee and would exclude investments made under the CU SIP and the CU HARP from the calculation. The operating fee is calculated as a percentage of total assets and, as such, the calculation already is geared to impose a lesser fee on smaller credit unions. In addition, the operating fee schedule has historically imposed no operating fee on FCUs with assets up to \$500,000 and a flat fee of \$100 for FCUs of up to \$750,000 in assets. The benefit of the proposed amendment would apply equally to small credit unions, to the extent they participate in the CU SIP or the CU HARP, and would not have a significant effect on their operating fees. The proposed rule, therefore, will not have a significant economic impact on a substantial number of small credit unions and a regulatory flexibility analysis is not required.

### Paperwork Reduction Act

NCUA has determined that the proposed amendments will not increase paperwork requirements and a paperwork reduction analysis is not required.

### Executive Order 13132

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

### *The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this proposed rule would 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).

### List of Subjects in 12 CFR Part 701

Credit unions, Low income, Nonmember deposits, Secondary capital, Shares.

By the National Credit Union Administration Board on February 26, 2009.

**Mary Rupp,**

*Secretary of the Board.*

For the reasons stated in the preamble, the National Credit Union Administration proposes to amend 12 CFR part 701 as set forth below:

### PART 701—ORGANIZATION AND OPERATIONS 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, 766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 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.

2. In § 701.6, add a new sentence to the end of paragraph (a) to read as follows:

#### **§ 701.6 Fees paid by Federal credit unions.**

(a) \* \* \* The term total assets does not include the assets created on the books of a natural person federal credit

union by investments made in a corporate credit union under the Credit Union System Investment Program or the Credit Union Homeowners Affordability Relief Program.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 922

#### RIN 0648-AX34

### Changes to the Florida Keys National Marine Sanctuary Regulations; Technical Corrections and Minor Substantive Changes

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Correction; Extend public comment period.

**SUMMARY:** On December 19, 2008, NOAA published a proposed rule in the **Federal Register** that makes technical corrections and minor modifications to the Florida Keys National Marine Sanctuary (FKNMS) regulations. The preamble of that document contained an inaccurate reference to U.S. Coast Guard regulations, which was a basis for one of the proposed modifications. This document eliminates that reference and clarifies the rationale for making this regulation change. The ONMS is preparing an environmental assessment pursuant to the National Environmental Policy Act.

**DATES:** The public comment period on the proposed rule published at 73 FR 77557, December 19, 2008, is reopened. Comments will be accepted through March 26, 2009.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- **Federal e-Rulemaking Portal:** <http://www.regulations.gov>. Submit electronic comments via the Federal e-Rulemaking Portal;
- **Mail:** David A. Score, Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040.
- **Instructions:** All comments received are a part of the public record and will be generally posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for

example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NOAA will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, Wordperfect, or Adobe PDF file formats only.

#### FOR FURTHER INFORMATION CONTACT:

David A. Score, Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040.

#### SUPPLEMENTARY INFORMATION:

##### Need for Correction

In the preamble of the proposed rule, NOAA incorrectly stated that the U.S. Coast Guard regulation Rule 27e specified a minimum distance of 100 yards between vessels and “divers down” flags. In fact, only the applicable Florida Statute specifies the 100-yard minimum distance requirement (Section 327.331 FS). In order to be consistent with the regulations issued by the State of Florida and consistent in both state and federal waters of the sanctuary, NOAA proposes to change our regulations from “100 feet” in 922.163 (a)(5)(iii)(C) to “100 yards.” Requiring a uniform minimum distance in both state and federal waters simplifies the sanctuary regulations, and therefore improves compliance for sanctuary users and enforcement of a single regulation. The regulation allows both diving and vessel operations to occur in relatively the same area without conflict. A consistent regulation also allows for better public education programs. NOAA is preparing an environmental assessment pursuant to the National Environmental Policy Act to analyze the impacts associated with this modification to the Florida Keys National Marine Sanctuary regulations.

##### Request for Comments

NOAA reopens the public comment period on the proposed rule to make technical corrections and amendments to the FKNMS regulations.

**Daniel J. Basta,**

*Director, Office of National Marine Sanctuaries.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-143686-07]

RIN 1545-BH35

#### The Allocation of Consideration and Allocation and Recovery of Basis in Transactions Involving Corporate Stock or Securities; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains a correction to a notice of proposed rulemaking (REG-143686-07) that was published in the *Federal Register* on Wednesday, January 21, 2009 (74 FR 3509) providing guidance regarding the recovery of stock basis in distributions under section 301 and transactions that are treated as dividends to which section 301 applies, as well as guidance regarding the determination of gain and the basis of stock or securities received in exchange for, or with respect to, stock or securities in certain transactions. The proposed regulations affect shareholders and security holders of corporations. These proposed regulations are necessary to provide such shareholders and security holders with guidance regarding the allocation and recovery of basis on distributions of property.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations under sections 301, 302, and 304, Theresa Kolish, (202) 622-7530; concerning the proposed regulations under sections 351, 354, 355, 356, 358, 368, 1001, and 1016, Rebecca O. Burch, (202) 622-7550; concerning the proposed regulations under section 861, Jeffrey L. Parry, (202) 622-4476 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

The correction notice that is the subject of this document is under sections 301, 302, 304, 351, 354, 355, 356, 358, 368, 861, 1001, 1016, and 1374 of the Internal Revenue Code.

##### Need for Correction

As published, the notice of proposed rulemaking (REG-143686-07) contains errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG-

143686-07), which was the subject of FR Doc. E9-1100, is corrected as follows:

1. On page 3509, column 2, in the preamble, under the caption **SUMMARY**, line 3, the language “301, 302, 304, 351, 354, 356, 358, 368,” is corrected to read “301, 302, 304, 351, 354, 355, 356, 358, 368,”.

2. On page 3509, column 3, in the preamble, under the caption **FOR FURTHER INFORMATION CONTACT**, line 5, the language “under sections 351, 354, 356, 358, 368,” is corrected to read “under sections 351, 354, 355, 356, 358, 368,”.

3. On page 3510, column 1, in the preamble, under the paragraph heading “Explanation of Provisions”, second paragraph, line 6, the language “lead to the possibility of variant” is corrected to read “led to the possibility of variant”.

4. On page 3510, column 1, in the preamble, under the paragraph heading “Explanation of Provisions”, second paragraph, line 5 from the bottom of the paragraph, the language “was needed reconsidered. See REG-” is corrected to read “needed reconsideration. See REG-”.

5. On page 3510, column 2, in the preamble, under the paragraph heading “Explanation of Provisions”, second paragraph of the column, line 2, the language “that a share of stock is the basic unit of” is corrected to read “that a share of stock is a basic unit of”.

6. On page 3511, column 2, in the preamble, under the paragraph heading “C. Dividend Equivalent Reorganization Exchanges”, first paragraph of the column, line 7 from the bottom of the paragraph, the language “of stock solely for nonqualifying” is corrected to read “of stock solely for qualifying”.

##### § 1.301-2 [Corrected]

7. On page 3513, column 3, § 1.301-2(a) *Example*(i), last line of the column, the language “\$25 (Block 1) and 75 were acquired on Date” is corrected to read “\$25 (block 1) and 75 were acquired on Date”.

8. On page 3514, column 1, § 1.301-2(a) *Example*(i), first line of the column, the language “2 for \$175 (Block 2). On December 31, when” is corrected to read “2 for \$175 (block 2). On December 31, when”.

##### § 1.302-5 [Corrected]

9. On page 3514, column 1, § 1.302-5(a)(3)(i), line 4 from the bottom of the column, the language “*treated as loss*. If all the shares of the” is corrected to read “*treated as a loss*. If all the shares of the”.

10. On page 3515, column 1, § 1.302-5(e) *Example 2*(ii), last line, the