Proposed Rule Summary

Prepared by NASCUS Legislative & Regulatory Affairs Department
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NCUA 12 CFR Part 791 — Definition of Small Credit Union
IRPS 15-1

NCUA is proposing a change to the definition of small credit union, increasing the threshold from $50 million to less than $100 million under the Regulatory Flexibility Act (RFA). The proposed change would amend Interpretive Ruling and Policy Statement (IRPS) 87-2, as amended by IRPS 03-2 and 13-1. To effect the change, NCUA would issue a new IRPS, 15-1, and reflect the change by reference in Part 791.

In 1981, NCUA initially defined a small credit union as one with less than $1 million in assets. In 2003, NCUA increased the asset threshold to $10 million, and then up to $50 million in assets in 2013. NCUA has pledged to review the asset threshold every three years. NCUA estimates that approximately 4,869 FICUs, all with less than $100 million in assets, would be classified as small credit unions under the proposed rule.

Comments are due to NCUA 60 days from publication of the proposed rule in the *Federal Register*. You may read the proposed rule in full here.

Summary

The RFA generally requires federal agencies to consider the impact of proposed and final rules on small entities. Credit unions are entities within the RFA, and therefore NCUA would be defining a small credit union for its regulatory purposes. The RFA allows the agencies to establish one or more definitions of a small entity or organization for the purposes of the agency. As noted above, NCUA proposed defining a small credit union as one with less than $100 million in assets. The definition of a small credit union affects the following:

- Pursuant to the RFA, NCUA must conduct an analysis of the economic impact of any proposed or final rule on small credit unions, under $100 million in assets as proposed.
- NCUA's Office of Small Credit Unions offers support services such as consulting to "small credit unions" and therefore this change would make another 700+ credit unions eligible for some services

The proposed change would not affect existing NCUA rules regarding liquidity funding (§741.12) or interest rate risk (§741.3(b)(5)). Those rules contain reduced expectations, or outright exceptions, for credit unions under $50 million in assets. However, NCUA will not change those asset thresholds at this time. Likewise, NCUA will proceed with its rulemaking related to risk-based capital (RBC) and the definition of complex credit union independently from this proposed change to the definition of small credit union.

In other words, the RFA definition of small credit union has very little direct regulatory impact for credit unions.

Why did NCUA Propose $100 million as the New Asset Threshold?

NCUA states that it analyzed various data to determine the appropriate asset threshold for defining a small credit union for RFA purposes:

- Slower Deposit Growth Rates – NCUA notes that deposit growth rates drop off significantly for credit unions with less than $100 million in assets.
- Slower Membership Growth Rates – NCUA also states that credit unions with less than $100 million in assets tend to have significantly slower membership growth rates than larger credit unions.
- Slower Growth in Loan Originations – NCUA states that credit unions with less than $100 million in assets had significantly slower growth in loan originations than larger credit unions.
- Higher Operating Expenses – Finally, NCUA notes the generally higher operating costs of credit unions with less than $100 million in assets compared to larger credit unions.

In the preamble to the proposed rule, NCUA states that the challenges faced by credit unions with less than $100 million in assets, related to lagging deposit growth, stagnant membership, and high operating costs have caused these credit unions to merge and/or fail at higher rates than larger credit unions. For example, credit unions with less than $100 million in assets represent 83% of all federally insured credit unions, but experienced 96% of mergers and liquidations since 2004. However, while credit unions with less than $100 million in assets experience 96% of mergers and liquidations, losses associated with these failures are 1/3 that of larger credit unions failing over the same time period.

Noting the balance between the operational disadvantages and the lower risk to the NCUSIF of credit unions with less than $100 million in assets, NCUA proposed the definition of a small credit union be raised to the $100 million threshold.