NCUA REQUIREMENTS AND GUIDANCE
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Legal Review

The RegTraC books are designed to provide general information regarding regulations affecting credit unions. They are not intended to substitute for legal advice based upon specific facts in any individual case, and credit unions with regulatory concerns are advised to consult with attorneys or specialists to obtain advice directed to their specific circumstances.

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If you have further questions, please contact CUNA at 800-356-9655, ext. 4249, or e-mail RegTraC@cuna.com.

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In developing this certification program, comments and ideas were solicited from an extensive number of experienced league and credit union people throughout the U.S. This network of credit union-oriented reviewers provided a wealth of information that produced this manual. True to credit union philosophy, the reviewers volunteered their efforts. Their work was time-consuming and tremendously helpful. The authors and publisher of this book wish to acknowledge their contributions with great appreciation.

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- Andrea Stritzke, PolicyWorks
- Jeff Andersen, PolicyWorks
- Jennifer Anderson-Kapke, PolicyWorks
SECTION 1 – OVERVIEW OF NCUA’S REGULATIONS AND SUPERVISORY AUTHORITY
Credit unions are subject to many federal laws and regulations that are discussed throughout the RegTraC books. This book focuses on the laws, regulations, policies, and procedures required by the National Credit Union Administration (NCUA), although a few of the regulations are discussed in detail in other books, as appropriate. All of NCUA’s regulations apply to federal credit unions. Selected regulations apply also to federally insured, state-chartered credit unions (FISCUs).

In order to track down the particular provisions of laws, regulations, or agency policies and understand the compliance requirements, it is very important to have an overall understanding of the different NCUA documents governing credit union operations. This section provides an overview.

Federal Laws, Regulations, and Other Documents That Control Credit Union Operations

The Federal Credit Union Act

The importance of the Federal Credit Union Act

NCUA’s authority to issue regulations is established by the Federal Credit Union (FCU) Act, the compilation of federal laws that specifically apply to credit unions. The FCU Act was first passed by Congress in 1934 and has been amended a number of times since then. The FCU Act is defined in the preamble as “An Act to establish a Federal Credit Union System, to establish a further market for securities of the United States and to make more available to people of small means credit for provident purposes through a national system of cooperative credit, thereby helping to stabilize the credit structure of the United States.” In order to change the language of the Act and to become law, both the U.S. House of Representatives and the U.S. Senate must pass identical bills, and the president must then sign the legislation to make it a public law.

To appreciate the importance Congress and the president have to the operations of credit unions, consider some of the significant amendments to the FCU Act in the past 30 years:

• March 1970 — Creation of the “National Credit Union Administration” as an independent agency run by an administrator, replacing the Bureau of Federal Credit Unions, which was under the U.S. Department of Health, Education, and Welfare.

• October 1970 — Creation of federal share insurance.

• November 1978 — Creation of the three-member NCUA board to run the agency and establishment of the “National Credit Union Central Liquidity Facility.”
• March 1980 — Increase of the (then)12% interest-rate limit that could be charged by FCUs on loans, increase of share insurance from $40,000 to $100,000, and phasing out the cap on dividend rates.

• August 1989 — Increase in NCUA’s enforcement powers and the penalties that can be imposed on federally insured credit unions experiencing problems.

• August 1998 — Restoration of NCUA’s authority to allow multiple-group fields of membership.

• May 2009 – Creation of a “Temporary Corporate Credit Union Stabilization Fund.” (A “corporate credit union” is a credit union that only provides services to other credit unions, not to consumers.)

The August 1998 amendments to the FCU Act are known as the “Credit Union Membership Access Act” (CUMAA). Credit unions became the most active they had ever been in the legislative process in 1997 and 1998 in order to persuade Congress to pass H.R. 1151 (the bill number given by the House of Representatives when the credit union bill was first introduced). The purpose of H.R. 1151 was to reverse the 1998 U.S. Supreme Court ruling that stated NCUA lacked the authority under the Federal Credit Union Act to allow multiple groups to be served by the same federal credit union.

Persuading Congress to pass a simple bill is rarely an easy process, and CUMAA is an example of Congress trying to address competing interests, in this case the banking industry vs. the credit union movement. What started as a two-page bill ended up upon passage as a law dozens of pages in length. Section 5 of this book addresses CUMAA and NCUA’s field-of-membership policies in depth.

The structure of the Federal Credit Union Act

The FCU Act is part of the massive United States Code of all the federal laws that cover taxation, environmental protection, bankruptcy, consumer disclosures, criminal laws, and the like. Title 12 of the U.S. Code covers all the federal banking laws; the FCU Act starts at 12 USC 1751 and runs through 12 USC 1795. NCUA publishes an 80-page booklet, “The Federal Credit Union Act,” which contains the full FCU Act with an index. The Act is also found on NCUA’s website. See Appendix 1-A of this section for information on finding NCUA Resources.

Almost every key provision affecting the operations of credit unions in the FCU Act is explained and elaborated upon by the NCUA board. The FCU Act gives the NCUA board authority to issue regulations, bylaws, and guidelines to implement the provisions of the law. Therefore, it is not essential that credit unions become intimately familiar with the language of the Federal Credit Union Act. However, you should have a general understanding of what is contained in the federal law in order to understand where NCUA may, and may not, have flexibility to allow a particular service.

The FCU Act is divided into three parts (called “titles”). In addition to the U.S. Code citations described above, the FCU Act is also sequentially numbered.