

# Proposed Rules

Federal Register

Vol. 80, No. 16

Monday, January 26, 2015

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 Part 702

RIN 3133-AE44

#### Capital Planning and Stress Testing—Schedule Shift

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board (Board) is issuing proposed amendments to the regulation governing credit union capital planning and stress testing. The amendments would adjust the timing of certain events in the capital planning and stress testing cycles. If finalized, the revisions to the regulation would become effective January 1, 2016.

**DATES:** Comments must be received on or before March 27, 2015.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *NCUA Web site:* [http://www.ncua.gov/RegulationsOpinionsLaws/proposed\\_regs/proposed\\_regs.html](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html). Follow the instructions for submitting comments.

- *Email:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name]—Comments on Proposed Rule—Capital Planning and Stress Testing—Schedule Shift” in the email subject line.

- *Fax:* (703) 518-6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- *Hand Delivery/Courier:* Same as mail address.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Taylor or Dale Klein, Senior Capital Markets Specialists, Office of National Examinations and Supervision, at the above address or telephone (703) 518-6640.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Background
- II. Proposed Amendments
- III. Regulatory Procedures

##### I. Background

In April 2014, the Board issued a final rule requiring capital planning and stress testing for federally insured credit unions (FICUs) with assets of \$10 billion or more.<sup>1</sup> Capital planning requires covered credit unions to assess their financial condition and risks over the planning horizon under both expected and unfavorable conditions. Annual supervisory stress testing allows NCUA to obtain an independent test of these credit unions under stress scenarios. By setting a regulatory minimum capital ratio under stress, the final rule requires covered credit unions to take corrective action before they become undercapitalized to an extent that may cause loss to the National Credit Union Share Insurance Fund.

The final rule provides several timeframes for the formulation and submission of capital plans and for the stress testing of covered credit unions. One critical date in the stress testing process is the date NCUA releases the baseline, adverse, and severely adverse economic scenarios that serve as basis for the testing. As noted in the preamble to the proposed rule, NCUA plans to base the scenarios on those developed by the Federal Reserve, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the banking agencies) for their regulated institutions.<sup>2</sup> At the time the Board issued NCUA’s final rule, the banking agencies were scheduled to provide scenarios for their regulated institutions by November 15 each year.<sup>3</sup> The banking agencies subsequently moved their scenario release dates to February 15.<sup>4</sup>

The Board intends to ensure that scenarios used for credit union stress testing essentially conform to those used by the banking agencies, both in substance and timing. The new

schedule on which the banking agencies’ scenarios are published necessitates NCUA’s modification of its own stress testing schedule.

Accordingly, this proposed rule would amend the capital planning and stress testing rule to change NCUA’s scenario release date from December 1 to February 28. In addition, the Board proposes to apply a more uniform fixed annual timeline for both capital planning and stress testing required under the rule. It also proposes to reword several provisions in the rule to clarify their meaning. The Board seeks comment on all aspects of this proposal.

##### II. Proposed Amendments

The proposed changes to the capital planning and stress testing rule are discussed in detail below.

###### 1. Section 702.502—Definitions

Section 702.502 of the current rule defines certain terms used in the capital planning and stress testing rule. The proposed rule amends one current definition and adds one new definition. The current rule defines a “covered credit union” as a FICU whose assets were at least \$10 billion on March 31 of “the current calendar year,” which the Board believes may be unclear. The proposal clarifies that a covered credit union is one whose assets are \$10 billion or more and that a FICU that crosses the asset threshold as of March 31 is subject to the capital planning and stress testing requirements of the rule in the following calendar year. In addition, the proposal adds a new definition for the term “capital planning process” to clarify that the process integrates the development of a capital planning policy with the formulation of a capital plan.

###### 2. Section 702.504—Capital Planning

Paragraph (a)(1) of current § 702.504 requires a covered credit union to submit a capital plan by February 28 of each year based on the credit union’s financial data as of September 30 of the preceding year. The proposal changes the capital plan submission date to April 30 and the as-of date to December 31 of the preceding year. The Board believes that a year-end as-of date will coincide more closely with annual strategic planning cycles at the covered credit unions. With the as-of date shifted from September 30 to December 31, the proposal correspondingly shifts

<sup>1</sup> 12 CFR part 702, subpart E; 79 FR 24311 (Apr. 30, 2014). The rule refers to FICUs with assets of \$10 billion or more as “covered credit unions.”

<sup>2</sup> 78 FR 65583, 65584 (Nov. 1, 2013).

<sup>3</sup> 12 CFR 46.5, 252.144, 252.154, and 325.204.

<sup>4</sup> 79 FR 64026 (Oct. 27, 2014); 79 FR 69365 (Nov. 21, 2014); 79 FR 71630 (Dec. 3, 2014).

the capital plan submission date as well. The Board notes that the proposal provides a covered credit union four months from the as-of date to complete its capital plan, rather than the five months in the current rule. This reduces the time a covered credit union will have to complete its plan, but the Board believes the modification is necessary to enable other dates in the capital planning and stress testing cycles to be synchronized. The Board also believes it is sufficient time for covered credit unions to complete the capital planning process.

3. Section 702.505—NCUA Action on Capital Plans

Paragraph (a) of current § 702.505 provides that NCUA will notify a covered credit union of the acceptance or rejection of its capital plan within 90 calendar days of the plan’s submission. The proposal modifies this provision to establish a fixed date of July 31, which is 90 days after April 30, the revised date the covered credit union is required to submit its capital plan to NCUA under proposed § 702.504(a)(1). The Board has determined that agency resources will be more efficiently allocated with a fixed date. In addition, the fixed date will ensure uniform timing of NCUA acceptance or rejection of credit union capital plans.

Paragraph (b) of current § 702.505 enumerates the reasons NCUA may reject a covered credit union’s capital plan including, in paragraph (b)(5), that NCUA finds unacceptable weakness in the plan, the planning analysis, or any system or process supporting the analysis. The proposal adds “or policy” to this provision, clarifying the Board’s

intention that a covered credit union’s capital policy and plan must intersect. Paragraph (d) of current § 702.505 provides that if NCUA rejects a covered credit union’s capital plan, the credit union must update and resubmit a plan within 90 days of the rejection. For consistency with the other deadlines mandated by the rule, the proposal changes this to a fixed date of October 31. The Board notes that this modification will not affect the amount of time a covered credit union will have to update and resubmit a capital plan. The proposal still provides a credit union 90 days to submit a revised plan.

4. Section 702.506—Annual Supervisory Stress Testing

Paragraph (a) of current § 702.506 provides that NCUA will release the baseline, adverse, and severely adverse stress test scenarios by December 1 of each year. In light of the banking agencies’ new scenario release date of February 15, as discussed above, the proposal likewise shifts NCUA’s release date to February 28. The proposal also shifts the as-of date for financial data from September 30 to December 31, for consistency with the changes affecting the capital planning process. In addition, the proposal deletes a redundant reference in paragraph (a) that requires a credit union to include the stress test results in the following year’s capital plan, as the requirement is contained in paragraph (g).

Paragraph (c) of current § 702.506 provides that after NCUA has conducted three consecutive stress tests, a covered credit union may, with NCUA approval, conduct its own stress tests. It states that a credit union must submit its request

to conduct the tests by July 31 and that NCUA will approve or disapprove the request by August 31. Consistent with the other proposed date shifts described above, the proposal moves the request date to October 31 and the response date to November 30. The proposal also adds language to paragraph (c) to clarify that a covered credit union must be subject to three NCUA-run stress tests before it seeks self-testing authority. This clarifying language makes paragraph (d) redundant, so the proposal deletes it. The proposal also redesignates paragraphs (e) through (i) as paragraphs (d) through (g), respectively.

Paragraph (g) of current § 702.506 states that NCUA will provide each covered credit union with its stress test results by May 31. Redesignated paragraph (f) of the proposal shifts that date to July 31.

Paragraph (h) of current § 702.506 states that if the NCUA-run stress tests show a covered credit union cannot maintain a stress test capital ratio of at least 5 percent, the credit union must provide NCUA, within 90 days of receipt of the stress test results, a stress test capital enhancement plan showing how it will meet the target. For consistency with the other deadlines in the rule, redesignated paragraph (g) of the proposal changes this to a fixed date of October 31, which is still 90 days from the time NCUA provides stress test results to the covered credit union.

5. Table Summarizing Proposed Date Changes

The following table summarizes the proposed changes to the annual timelines provided in the capital and stress testing rule.

TABLE 1—REVISED ANNUAL CAPITAL PLANNING AND STRESS TESTING TIMELINES

Action required	Current rule	Proposed rule
As-of date for covered credit union’s capital plan and NCUA stress test data .....	September 30 .....	December 31.
NCUA releases stress test scenarios .....	December 1 .....	February 28.
Covered credit union submits capital plan to NCUA (incorporating credit union–run stress tests, if authorized).	February 28 .....	April 30.
NCUA provides NCUA-run stress test results to covered credit union .....	May 31 .....	July 31.
NCUA accepts or rejects covered credit union’s capital plan .....	Within 90 days of plan’s submission .....	July 31.
Covered credit union submits stress test capital enhancement plan, if required .....	Within 90 days of receipt of test results .....	October 31.
Covered credit union submits revised capital plan, if required .....	Within 90 days of NCUA rejection .....	October 31.
Covered credit union requests authority to conduct stress tests .....	July 31 .....	October 31.
NCUA approves or declines covered credit union’s request to conduct stress tests	August 31 .....	November 30.

III. Regulatory Procedures

a. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact any proposed regulation may have on a substantial number of small entities

(primarily those under \$50 million in assets).<sup>5</sup> Because the proposed rule only applies to FICUs with \$10 billion or more in assets, it will not have any economic impact on small credit unions.

<sup>5</sup> 5 U.S.C. 603(a).

b. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities

or increases an existing burden.<sup>6</sup> For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. The proposed changes to part 702 do not impose any new information collection requirements, and there is no new burden.

c. Executive Order 13132

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

d. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule will 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 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board, on January 15, 2015.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration proposes to amend part 702 as follows:

PART 702—CAPITAL ADEQUACY

■ 1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

■ 2. Amend § 702.502 by adding a definition of “Capital planning process” in alphabetical order and revising the definition of “Covered credit union” to read as follows:

§ 702.502 Definitions.

\* \* \* \* \*

Capital planning process means development of a capital policy and

formulation of a capital plan that conforms to this policy.

Covered credit union means a federally insured credit union whose assets are \$10 billion or more. A credit union that crosses the asset threshold as of March 31 is subject to the capital planning and stress testing requirements of this subpart in the following calendar year.

\* \* \* \* \*

■ 3. Amend § 702.504 by revising paragraph (a)(1) to read as follows:

§ 702.504 Capital planning.

(a) \* \* \*

(1) A covered credit union must develop and maintain a capital plan. It must submit this plan and its capital policy to NCUA by April 30 each year, or such later date as directed by NCUA. The plan must be based on the credit union’s financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. NCUA will assess whether the capital planning and analysis process is sufficiently robust in determining whether to accept a credit union’s capital plan.

\* \* \* \* \*

■ 4. Amend § 702.505 by revising paragraphs (a), (b)(5), and (d) to read as follows:

§ 702.505 NCUA action on capital plans.

(a) Timing. NCUA will notify the covered credit union of the acceptance or rejection of its capital plan by July 31 of the year in which the credit union submitted its plan.

(b) \* \* \*

(5) NCUA finds unacceptable weakness in the capital plan or policy, the capital planning analysis, or any critical system or process supporting capital analysis;

\* \* \* \* \*

(d) Resubmission of a capital plan. If NCUA rejects a credit union’s capital plan, the credit union must update and resubmit an acceptable capital plan to NCUA by October 31 of the year in which the credit union submitted its plan. The resubmitted capital plan must, at a minimum, address:

(1) NCUA-noted deficiencies in the credit union’s original capital plan or policy; and

(2) Remediation plans for unresolved supervisory issues contributing to the rejection of the credit union’s original capital plan.

\* \* \* \* \*

■ 5. Amend § 702.506 by:

■ a. Revising the first two sentences of paragraph (a);

■ b. Revising paragraph (c);

■ b. Removing paragraph (d);

■ c. Redesignating paragraphs (e) through (i) as (d) through (h), respectively; and

■ d. Revising newly redesignated paragraphs (d) through (g).

The revisions read as follows:

§ 702.506 Annual supervisory stress testing.

(a) General requirements. The supervisory stress tests consist of baseline, adverse, and severely adverse scenarios, which NCUA will provide by February 28 of each year. The tests will be based on the credit union’s financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. \* \* \*

\* \* \* \* \*

(c) Credit union-run tests under NCUA supervision. After NCUA has completed three consecutive supervisory stress tests of a covered credit union, the covered credit union may, with NCUA approval, conduct the tests described in this section. A covered credit union must submit its request to NCUA to conduct its own stress test by October 31 for the following annual cycle. NCUA will approve or decline the credit union’s request by November 30 of the year in which the credit union submitted its request. NCUA reserves the right to conduct the tests described in this section on any covered credit union at any time. Where both NCUA and a covered credit union have conducted the tests, the results of NCUA’s tests will determine whether the covered credit union has met the requirements of this section.

(d) Potential impact on capital. In conducting stress tests under this subpart, NCUA or the covered credit union will estimate the following for each scenario during each quarter of the stress test horizon:

(1) Losses, pre-provision net revenues, loan and lease loss provisions, and net income; and

(2) The potential impact on the stress test capital ratio, incorporating the effects of any capital action over the 9-quarter stress test horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the horizon. NCUA or the covered credit union will conduct the stress tests without assuming any risk mitigation actions on the part of the covered credit union, except those existing and identified as part of the covered credit union’s balance sheet, or off-balance sheet positions, such as asset sales or derivatives positions, on the date of the stress test.

(e) Information collection. Upon request, the covered credit union must

<sup>6</sup> 44 U.S.C. 3507(d); 5 CFR part 1320.

provide NCUA with any relevant qualitative or quantitative information requested by NCUA pertinent to the stress tests under this section.

(f) *Stress test results.* NCUA will provide each covered credit union with the results of the stress tests by July 31 of the year in which it conducted the tests. A credit union conducting its own stress tests must incorporate the test results in its capital plan.

(g) *Supervisory actions.* If NCUA-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must provide NCUA, by October 31 of the calendar year in which NCUA conducted the tests, a stress test capital enhancement plan showing how it will meet that target. If credit union-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must incorporate a stress test capital enhancement plan into its capital plan. Any affected credit union operating without a stress test capital enhancement plan accepted by NCUA may be subject to supervisory actions on the part of NCUA.

\* \* \* \* \*

[FR Doc. 2015-01239 Filed 1-23-15; 8:45 am]

BILLING CODE 7535-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2015-0080; Directorate Identifier 2012-NM-189-AD]

RIN 2120-AA64

#### Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all ATR—GIE Avions de Transport Régional Model ATR42 airplanes. This proposed AD was prompted by several reports of a cracked floor beam at frame (FR) 26, and of discrepancies in certain wing inspection tasks in maintenance documents that could lead to errors in

scheduling inspection intervals of structurally significant items (SSIs). This proposed AD would require repetitive inspections of certain floor beams and revision of the maintenance or inspection program to include inspections of several areas of the wings. We are proposing this AD to detect and correct any cracking of the floor beam at FR 26 and several areas of the wings, which could lead to reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by March 12, 2015.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email [continued.airworthiness@atr.fr](mailto:continued.airworthiness@atr.fr); Internet <http://www.aerochain.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-0080; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer,

International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1137; fax 425-227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2015-0080; Directorate Identifier 2012-NM-189-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

##### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2012-0193, dated September 25, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all ATR—GIE Avions de Transport Régional Model ATR42 airplanes. The MCAI states:

Floor beam at Frame 26: During maintenance checks, the floor beam at frame (FR) 26 was found cracked on several ATR 42 aeroplanes.

This condition, if not detected and corrected, could lead to reduce the structural integrity of the aeroplane. A new Structural Significant Items (SSI) task will be introduced in the next revision of the ATR42 Time Limits document in order to address this issue.

MRBR/MPD discrepancy on Wings item: A discrepancy has been noticed between the Maintenance Review Board Report (MRBR)/Maintenance Planning Document (MPD) and the Time Limits document. ATR modifications 02805 and 08039 were erroneously stated similar in the MRBR/MPD, inducing misleading applicability of the SSI tasks depending upon the document used and leading operators to miss several inspections, as evidenced during a recent review.

Following the structural investigation, new inspection thresholds have been calculated and will be introduced in the next revisions of the ATR Time Limits documents (Revision 8 and Revision 9, as applicable to the aeroplane models) and MRBR/MPD documents.