

the date the order granting such relief becomes final as defined in §§ 3.1(d)(2) and 3.39 of this chapter.

(1) *Applicability of the annual cap.* When grants are no longer available in a fiscal year, further decisions to grant or deny such relief shall be reserved until such time as a grant becomes available under the annual limitation in a subsequent fiscal year. Immigration judges and the Board may deny without reserving decision or may pretermitted those suspension of deportation or cancellation of removal applications in which the applicant has failed to establish statutory eligibility for relief. The basis of such denial or pretermision may not be based on an unfavorable exercise of discretion, a finding of no good moral character on a ground not specifically noted in section 101(f) of the Act, a failure to establish exceptional or extremely unusual hardship to a qualifying relative in cancellation cases, or a failure to establish extreme hardship to the applicant and/or qualifying relative in suspension cases.

(2) *Aliens applying for additional forms of relief.* Whether or not the cap has been reached, the Immigration Court or the Board shall adjudicate concurrently all other forms of relief for which the alien has applied. Applications for suspension of deportation or cancellation of removal shall be denied in the exercise of discretion if the alien is granted asylum or adjustment of status, including pursuant to section 202 of NACARA, while the suspension of deportation or cancellation of removal application is pending. Where an appeal of a decision granting asylum or adjustment is sustained by the Board, a decision to deny as a matter of discretion an application for suspension of deportation or cancellation of removal on this basis shall be reconsidered.

Dated: September 25, 1998.

Janet Reno,
Attorney General.

[FR Doc. 98-26200 Filed 9-29-98; 8:45 am]

BILLING CODE 4410-30-P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R-0999]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule to amend Regulation C, which implements the Home Mortgage Disclosure Act. The amendments: modify the Loan Application Register to prepare for Year 2000 data systems conversion; delete the requirement to enter the reporting institution's parent company on the Transmittal Sheet; and make certain other technical changes to the regulation and reporting forms.

EFFECTIVE DATE: September 24, 1998. The amendments apply to data collected for calendar year 1998, to be reported by March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Pamela Morris Blumenthal, Staff Attorney, or John C. Wood, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412 or (202) 452-3667; for users of Telecommunications Device for the Deaf (TDD) *only*, contact Diane Jenkins at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Board's Regulation C (12 CFR part 203) implements the Home Mortgage Disclosure Act (HMDA) (12 U.S.C. 2801-2810). The regulation requires most mortgage lenders located in metropolitan statistical areas (MSAs) to report annually to federal supervisory agencies, and disclose to the public, information about their home mortgage and home improvement lending activity. The supervisory agencies include the Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Department of Housing and Urban Development.

In February 1998, the Board proposed to amend Regulation C to modify the HMDA Loan Application Register (HMDA-LAR) to prepare for Year 2000 data systems conversion, delete parent company information on the Transmittal Sheet (TS), and make certain other technical changes (63 FR 9453, February 25, 1998). The Board received 16 comments on the proposal. The majority of the commenters favored adoption of the proposal; several commenters suggested changes or clarifications on certain points, as discussed below.

II. Discussion of Final Rule

A. Year 2000 Changes

Among items reported on the HMDA-LAR, institutions are required to enter the date of application and the date

action was taken. Currently, these dates are to be entered using two digits for the year, in the form MM/DD/YY. As part of the interagency program related to the Year 2000—Century Date Change, the agencies responsible for HMDA compliance have modified software—to avoid the confusion of a date in the 21st century with a date in the 20th century—by adding two digits to represent the century. For example, January 15, 2000, will be reflected as 01/15/2000 rather than 01/15/00. To carry out this program with regard to HMDA reporting, the HMDA-LAR form and the instructions (Appendix A to Regulation C) have been revised to require the date of application and date of action taken to be entered using four digits for the year.

A few commenters noted that the 1998 data collection has been under way since the beginning of the year using the two-digit format. They stated that making the change to a four-digit year could be burdensome. One institution said that it was in the process of acquiring several other institutions which were collecting data using a two-digit year; these institutions all used different software and different data processing vendors. The commenter believed that it would be difficult for them to convert the HMDA data to a four-digit year for 1998 data.

The Board believes that, for the vast majority of HMDA reporting institutions, use of a four-digit year in reporting 1998 data will not present a problem. The personal computer data entry software available from the supervisory agencies for 1998 data collection already reflects the four-digit year (as well as the deletion of parent company information on the TS, discussed below). The Board believes that private sector software vendors (and institutions that have developed their own software) have modified their HMDA data entry software in a similar manner, or are in the process of doing so.

The Board therefore is adopting the amendments making the Year 2000 program change to the HMDA-LAR form and instructions. The Board recognizes that there could be isolated instances in which an institution may experience difficulty in converting its data base to reflect the four-digit identification for the calendar year 1998. In such cases, the institution should consult with its supervisory agency for further guidance as soon as possible but no later than December 31, 1998. Earlier consultation will enable the agency to work with the institution to resolve the technical difficulties, and

avoid the last-minute need to resubmit the data in a conforming format.

The MM/DD/CCYY format applies to paper submissions only. For institutions submitting data in electronic form, the proper format (as already stated in the 1998 HMDA File Specifications) is CCYYMMDD.

The paper version of the HMDA-LAR model form in Appendix A shows sample transactions that reflect dates from 1992, as do the instructions. To update these examples and instructions, as well as to remind reporting institutions of the change to a four-character year, the amendments replace "92" with "1999" in the examples and instructions.

B. Deletion of Parent Company Information

The Transmittal Sheet (TS) that accompanies the HMDA-LAR currently calls for the name and address of the parent company of the institution submitting HMDA data. The Board proposed to amend the TS by deleting this requirement, given that in most cases the information is available from the bank structure information already collected by the agencies.

Several commenters suggested that the parent company information is useful in analyzing lending patterns of an entire organization such as a bank holding company and all of its bank and non-bank subsidiaries. Commenters were concerned that the parent company information might not be readily accessible to the public. Information about an institution's parent, subsidiary, and affiliate companies is available through the FFIEC's Web site (at www.ffiec.gov/nic/default.htm), and generally is more accurate and complete than the information from the TS. Users of this Web site can search for institutions by name or location, and, starting with a specific institution, can ascertain the institution's parent, subsidiaries, and affiliates, if any.

The Board believes that the availability of information from the FFIEC Web site makes the continuation of the requirement for parent company information on the TS unnecessary. Accordingly, the Board is deleting the requirement to enter parent company information on the TS.

C. Reassignment of Functions of Farmers Home Administration

One of the items of information reported on the HMDA-LAR about a loan or application is the type of loan. Similarly, for loans sold, the lender reports the type of purchaser of the loan. The code sheet lists the Farmers Home

Administration (FmHA) as one of the categories (as an insurer or purchaser of loans).

Reorganization within the Department of Agriculture has resulted in the functions of the FmHA being reassigned to two new units, the Farm Service Agency and the Rural Housing Service. For "type of loan," the Board has replaced the references to the Farmers Home Administration or FmHA (in the code sheet for the HMDA-LAR form and in the instructions regarding type of loan) with a reference to "Farm Service Agency or Rural Housing Service" (or "FSA/RHS"). With regard to "type of purchaser," the successor agencies to FmHA do not purchase loans. A secondary market entity that does purchase loans, the Federal Agricultural Mortgage Corporation, is not currently included in the list. Accordingly, the Board has revised the references to FmHA, as a purchaser of loans, to refer instead to the Federal Agricultural Mortgage Corporation or FAMC.

These changes are effective for the collection and reporting of 1998 data. However, to the extent that forms and software used for reporting purposes do not reflect the changes, institutions should use the existing codes for FmHA to refer to loans guaranteed by FSA or RHS, or to loans that have been sold to FAMC, as applicable.

D. Paperwork Reduction Act Requirements

Regulations issued by the Office of Management and Budget (OMB) to implement the Paperwork Reduction Act (5 CFR Part 1320) contemplate that regulations imposing data collection requirements include control numbers assigned by OMB. Currently, Regulation C, the instructions for the HMDA-LAR and TS, and the TS form itself contain an OMB control number (7100-0247) assigned to the Board in connection with HMDA reporting requirements. The Board is now adopting a technical amendment to the regulation, the instructions, and the TS form—adding the control numbers assigned to the Office of the Comptroller of the Currency (1557-0159), the Federal Deposit Insurance Corporation (3064-0046), and the Office of Thrift Supervision (1550-0021). The National Credit Union Administration and the Department of Housing and Urban Development are in the process of obtaining OMB control numbers; these numbers will be added at a later time. The amendment also includes a number of other minor technical changes in the instructions and the TS form, such as deletion of references to the OMB

control number expiration dates on the TS form.

E. Clarification Regarding Coverage of Nondepository Lending Institutions

The Board has adopted a technical amendment to clarify the coverage of nondepository institutions. The definition of "financial institution" under Regulation C includes nondepository lending institutions that, in the preceding calendar year, originated home purchase loans or refinancings of home purchase loans in an amount of 10 percent or more of the institution's total loan origination volume, measured in dollars. The definition is stated in section 203.2(e)(2) and in paragraph I.D. of Appendix A to the regulation. Even if a nondepository institution meets the definition of "financial institution," however, it is covered by Regulation C only if the institution either had assets over \$10 million or originated 100 or more home purchase loans, including refinancings of home purchase loans, during the preceding calendar year. The instructions (see paragraph I.C. of Appendix A) refer expressly to refinancings, but section 203.3(a)(2)(ii) does not. Some institutions have suggested to the Board that including a reference to refinancings in section 203.3 would be useful.

The Board's notice at the time the 100-loan test was added to Regulation C made clear that refinancings of home purchase loans are included in calculating whether the coverage threshold was reached. (See 57 FR 56963, December 2, 1992.) Accordingly, the Board is adding a reference to refinancings of home purchase loans to section 203.3(a)(2)(ii), to conform to paragraph I.C. of Appendix A.

F. Adjustment in Exemption Threshold for Depository Institutions

The Board adjusts the exemption threshold for depository institutions annually based on the annual percentage change in the Consumer Price Index. In December 1997, the Board adjusted the exemption threshold for depository institutions for 1998 data collection to \$29 million (from \$28 million) (62 FR 66259, December 18, 1997). The change was incorporated in the Regulation C staff commentary. Thus, depository institutions with assets of \$29 million or less as of December 31, 1997, are exempt from data collection in 1998. The Board is amending the regulation and the instructions for the HMDA-LAR to indicate that future adjustments will be included in the staff commentary.

III. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604), the Board has reviewed the final amendments to Regulation C. Two of the three requirements of a final regulatory flexibility analysis under this section are (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments. These two areas are discussed above. The third requirement of the analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The final amendments will apply to mortgage lending institutions that exceed certain size thresholds (for depository institutions, \$29 million in assets; for nondepository institutions, \$10 million in assets or the origination of 100 or more home purchase loans or refinancings in the preceding year). In addition, the amendments represent relatively small changes to the existing regulation; in some cases, the amendments clarify rights and duties of covered institutions or reduce economic burden. Accordingly, the amendments should not have a negative economic impact on small institutions, and, therefore, there were no significant alternatives that would have minimized the economic impact on those institutions.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320, Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number for the Board is 7100-0247.

The collection of information that is revised by this rulemaking is found in 12 CFR 203.1, 203.3, and Appendix A to Part 203. This information collection is mandatory (12 U.S.C. 2801 *et seq.*) under the Home Mortgage Disclosure Act (HMDA). HMDA requires institutions to collect and report data about home purchase and home improvement loans. The purposes of HMDA are threefold. The first is to provide the public and government

officials with information that will help determine whether financial institutions are serving the housing needs of the communities in which they are located. The second purpose is to help public officials promote investments in neighborhoods where investment is needed. Finally, the data collected assist in identifying possible discriminatory lending patterns. The respondents/record keepers are all types of financial institutions and other mortgage-lending institutions that meet the coverage tests. Small businesses with assets of \$29 million or less, as of December 31, 1997, are not required to report 1998 data. Records must be retained for five years.

No comments specifically addressing the burden estimate were received.

The estimated burden per response varies from 10 to 10,000 hours, depending on individual circumstances, with estimated averages of 202 hours for state member banks and 160 hours for mortgage banking subsidiaries. The amendments will make several technical changes in the reporting requirements and also clarify existing requirements of Regulation C; these changes should have no effect on reporting burden, and in some cases may reduce burden. The Board received HMDA-LARs covering 1997 data from 513 state member banks and 81 mortgage banking subsidiaries. Therefore, the total hour burden for institutions the Federal Reserve supervises is 116,586. There is estimated to be no annual cost burden, associated capital, or start up costs.

The Board has previously determined HMDA data collection and reporting is required by law; completion of the loan application register, submission to the Board, and disclosure to the public on request are mandatory. The data, as modified according to Appendix A of the regulation, are made publicly available and are not considered confidential. Information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)).

The Board has a continuing interest in the public's opinions of the Federal Reserve's collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0247), Washington, DC 20503.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

Text of Revisions

Pursuant to the authority granted in section 305(a) of HMDA, 12 U.S.C. 2804(a), and for the reasons set forth in the preamble, the Board amends 12 CFR Part 203 as set forth below:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. Section 203.1 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 203.1 Authority, purpose, and scope.

(a) **Authority.** * * * The information-collection requirements have been approved by the U.S. Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and have been assigned OMB Numbers 1557-0159, 3064-0046, 1550-0021, and 7100-0247 for institutions reporting data to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Federal Reserve System, respectively; numbers for the National Credit Union Administration and the Department of Housing and Urban Development are pending.

* * * * *

3. Section 203.3 is amended as follows:

a. Paragraphs (a)(1) introductory text and (a)(2) introductory text are republished;

b. Paragraph (a)(1)(ii) is revised; and

c. Paragraph (a)(2)(ii) is revised.

The revisions read as follows:

§ 203.3 Exempt institutions.

(a) *Exemption based on location, asset size, or number of home purchase loans.* (1) A bank, savings association, or credit union is exempt from the requirements of this regulation for a given calendar year if on the preceding December 31:

(i) * * *

(ii) The institution's total assets were at or below the asset threshold established by the Board. The asset threshold was adjusted from \$10 million to \$28 million as of December 31, 1996. For subsequent years, the Board will adjust the threshold based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not

seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million. The Board will publish any adjustment to the asset figure in December in the staff commentary.

(2) A for-profit mortgage lending institution (other than a bank, savings association, or credit union) is exempt from the requirements of this regulation for a given calendar year if:

(i) * * *

(ii) The institution's total assets combined with those of any parent corporation were \$10 million or less on the preceding December 31, and the institution originated fewer than 100 home purchase loans (including refinancings of home purchase loans) in the preceding calendar year.

* * * * *

4. In Appendix A to part 203 under the heading PAPERWORK REDUCTION ACT NOTICE, the undesignated paragraph is revised to read as follows:

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register

Paperwork Reduction Act Notice

This report is required by law (12 U.S.C. 2801–2810 and 12 CFR part 203). An agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for this information collection are 1557–0159, 3064–0046, 1550–0021, and 7100–0247 for institutions reporting data to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Federal Reserve

System, respectively; numbers for the National Credit Union Administration and the Department of Housing and Urban Development are pending. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the respective agencies and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

* * * * *

5. Appendix A to Part 203 is amended as follows:

- a. Paragraph I.A.2. is revised;
- b. Paragraphs V.A.2. and V.A.3. are revised;
- c. In paragraph V.B.3., the introductory text is revised; and
- d. Paragraph V.E.1. introductory text is republished and paragraph V.E.1.4 is revised.

The revisions read as follows:

I. Who Must File a Report

A. Depository Institutions

1. * * *

2. The asset threshold was adjusted from \$10 million to \$28 million as of December 31, 1996. Any adjustment to the asset threshold for depository institutions will be published by the Board in December in the staff commentary.

* * * * *

V. Instructions for Completion of Loan/ Application Register

A. Application or Loan Information

1. * * *

2. *Date application received.* For paper submissions only, enter the date the loan application was received by your institution by month, day, and year, using numerals in the form MM/DD/CCYY (for example, 01/15/

1999). For institutions submitting data in electronic form, the proper format is CCYYMMDD. If your institution normally records the date shown on the application form, you may use that date instead. Enter "NA" for loans purchased by your institution.

3. *Type.* Indicate the type of loan or application by entering the applicable code from the following:

- 1—Conventional (any loan other than FHA, VA, FSA, or RHS loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FSA/RHS-guaranteed (Farm Service Agency or Rural Housing Service)

* * * * *

B. Action Taken

* * * * *

3. *Date of action.* For paper submissions only, enter the date by month, day, and year, using numerals in the form MM/DD/CCYY (for example, 02/22/1999). For institutions submitting data in electronic form, the proper format is CCYYMMDD.

* * * * *

E. Type of Purchaser

1. Enter the applicable code to indicate whether a loan that your institution originated or purchased was then sold to a secondary market entity within the same calendar year:

* * * * *

- 4—FAMC (Federal Agricultural Mortgage Corporation)

* * * * *

6. In Appendix A, the LOAN/ APPLICATION REGISTER Transmittal Sheet is revised to read as follows:

BILLING CODE 6210-01-P

LOAN/APPLICATION REGISTER

Form FR HMDA-LAR.
OMB Nos. 1557-0159 (OCC), 3064-0046
(FDIC), 1550-0021 (OTS), and 7100-0247
(FRB); NCUA and HUD numbers
pending.

TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number	Agency Code	Reporter's Tax Identification Number	Total line entries contained in attached Loan/Application Register
_____	_____	_____	_____

The Loan/Application Register that is attached covers activity during the year _____ and contains a total of _____ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

Name of Institution

Address

City, State, ZIP

Enter the name, telephone number, and facsimile number of a person who may be contacted about questions regarding your register:

Name _____ () _____ Facsimile Number _____
Telephone Number _____

An officer of your institution must complete the following section:

I certify to the accuracy of the data contained in this register.

Name of Officer _____ Signature _____ Date _____

7. In Appendix A, the LOAN/APPLICATION REGISTER is revised to read as follows:

8. In Appendix A, the LOAN/ APPLICATION REGISTER CODE SHEET is revised to read as follows:

Loan/Application Register Code Sheet

Use the following codes to complete the Loan/Application Register. The instructions to the HMDA-LAR explain the proper use of each code.

Application or Loan Information

Type:

- 1—Conventional (any loan other than FHA, VA, FSA, or RHS loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FSA/RHS-guaranteed (Farm Service Agency or Rural Housing Service)

Purpose:

- 1—Home purchase (one-to-four family)
- 2—Home improvement (one-to-four family)
- 3—Refinancing (home purchase or home improvement, one-to-four family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

Owner-Occupancy:

- 1—Owner-occupied as a principal dwelling
- 2—Not owner-occupied
- 3—Not applicable

Action Taken:

- 1—Loan originated
- 2—Application approved but not accepted
- 3—Application denied by financial institution
- 4—Application withdrawn by applicant
- 5—File closed for incompleteness
- 6—Loan purchased by your institution

Applicant Information

Race or National Origin:

- 1—American Indian or Alaskan Native
- 2—Asian or Pacific Islander
- 3—Black
- 4—Hispanic
- 5—White
- 6—Other
- 7—Information not provided by applicant in mail or telephone application
- 8—Not applicable

Sex:

- 1—Male
- 2—Female
- 3—Information not provided by applicant in mail or telephone application
- 4—Not applicable

Type of Purchaser

- 0—Loan was not originated or was not sold in calendar year covered by register
- 1—FNMA (Federal National Mortgage Association)
- 2—GNMA (Government National Mortgage Association)
- 3—FHLMC (Federal Home Loan Mortgage Corporation)
- 4—FAMC (Federal Agricultural Mortgage Corporation)
- 5—Commercial bank
- 6—Savings bank or savings association
- 7—Life insurance company
- 8—Affiliate institution
- 9—Other type of purchaser

Reasons for Denial (optional)

- 1—Debt-to-income ratio
- 2—Employment history
- 3—Credit history
- 4—Collateral
- 5—Insufficient cash (downpayment, closing costs)
- 6—Unverifiable information
- 7—Credit application incomplete
- 8—Mortgage insurance denied
- 9—Other

By order of the Board of Governors of the Federal Reserve System, September 24, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98-26155 Filed 9-29-98; 8:45 am]

BILLING CODE 6210-01-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 724

Organization and Operation of Federal Credit Unions; Trustees and Custodians of Pension Plans

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Rule.

SUMMARY: NCUA is adopting as final the interim final amendments to part 724 regarding federal credit unions acting as trustees and custodians of pension and retirement plans and part 701 regarding retirement benefits for federal credit union employees that were issued in March, 1998. The final amendments revise part 724 to authorize federal credit unions to act as trustees and custodians for Roth IRAs and Education IRAs. The final amendments also conform part 701 to be consistent with the changes made to part 724.

DATES: Effective January 1, 1998.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314-3428.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, at the above address, or telephone at (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Interim Final Rule

On March 13, 1998, NCUA issued an interim final rule that made the above summarized substantive and conforming revisions to part 724 and part 701. It became effective upon its publication in the **Federal Register** on March 24, 1998. 63 FR 14025, March 24, 1998. In response to a request for comment made in the interim final rule, NCUA received four comment letters, three from trade associations and one from a federal credit union. Each of the

four commenters supported the final amendments and also provided additional comments, as discussed below.

The interim final rule provides that federal credit unions are authorized to act as trustees and custodians of Roth IRAs and Education IRAs. Such authority is in addition to those trustee and custodian services that federal credit unions have been authorized to provide for other kinds of pension and retirement plans for approximately the past twenty-three years. Two commenters noted that many federal credit unions began acting as trustees and custodians of Roth IRAs and Education IRAs as early as January 1, 1998, the date on which such accounts were available to consumers, and that many other federal credit unions did the same between January 1, 1998 and March 23, 1998. Each of these two commenters voiced a concern that such action, having been taken by federal credit unions in advance of the effective date of the interim final rule, could leave many federal credit unions and Roth IRA and Education IRA account holders subject to possible tax liability or other regulatory difficulties.

Specifically, each of these commenters noted that, because NCUA did not technically provide federal credit unions with regulatory authority to act as trustees and custodians for such accounts prior to March 24, 1998, accounts opened prior to that date might be viewed as failing to qualify for the intended tax treatment under the Internal Revenue Code. Under such circumstances, holders of Roth IRA and Education IRA accounts opened prior to March 24, 1998, with regular contributions or especially via a roll-over from another qualifying plan, could face severe tax consequences and other significant financial hardships.

Accordingly, the commenters urged NCUA to make this final rule effective retroactively to January 1, 1998. The tax benefits available to individuals through Roth IRA and Education IRA accounts arise through amendments to the Internal Revenue Code. Those amendments became effective for tax payers as of January 1, 1998. Through the same IRA amendments, FCUs' existing statutory authority was expanded. In the Board's view, any limitation resulting from the wording of NCUA's regulations would raise a technical regulatory violation for an FCU, not a tax problem for individual account holders. Nevertheless, to avoid any undesirable consequences, cure unintended results and relieve federal credit unions acting as trustees and