

nominations are confirmed during Tuesday's session of the Senate, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BANKS. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Ms. KLOBUCHAR. Mr. President, I was unable to cast a vote on rollcall vote No. 623, passage of H.J. Res. 130, disapproving the Bureau of Land Management resource management plan that made certain land managed by the Buffalo Field Office unavailable for new coal leases.

Had I been present, I would have voted against the measure as I had voted against the identical Senate companion, S. 89, the day before, rollcall vote No. 621. The Congressional Review Act is not the appropriate tool for reversing Bureau of Land Management decisions that are developed with years of analysis and public engagement.

GOVERNMENT ACCOUNTABILITY OFFICE OPINION LETTER

Ms. WARREN. Mr. President, I ask unanimous consent to have printed in the RECORD the GAO opinion letter dated January 16, 2026.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECISION

Matter of: National Credit Union Administration—Applicability of the Congressional Review Act to Withdrawal of Fee Reporting Requirements.

File: B-337673.

Date: January 16, 2026.

DIGEST

In March 2025, the National Credit Union Administration (NCUA) announced that it would no longer require federally insured credit unions with more than \$1 billion in assets to disclose income from overdraft and non-sufficient funds fees, and NCUA therefore ceased publishing this information for individual credit unions (withdrawal of the Reporting Requirements). NCUA stated that it would continue to collect this information as part of its separate credit union examination process and would continue publishing this information in aggregated form.

The Congressional Review Act (CRA) requires that before a rule can take effect, an agency must submit the rule to both the House of Representatives and the Senate, as well as the Comptroller General. CRA adopts the definition of a rule under the Administrative Procedure Act (APA) but excludes certain categories of rules from coverage. We conclude that the withdrawal of the Report-

ing Requirements meets the APA definition of a rule, and no CRA exception applies. Therefore, the withdrawal of the Reporting Requirements is a rule subject to CRA's submission requirements.

DECISION

In March 2025, the National Credit Union Administration (NCUA) announced that it would no longer require federally insured credit unions (FICUs) with more than \$1 billion in assets to disclose income from overdraft and non-sufficient funds (NSF) fees, and NCUA therefore ceased publishing this information for individual credit unions (withdrawal of the Reporting Requirements). NCUA stated that it would continue to collect this information as part of its separate credit union examination process, the results of which are not made public at the individual credit union level. We received a request for a decision as to whether the withdrawal of the Reporting Requirements is a rule for purposes of the Congressional Review Act (CRA).

Our practice when rendering decisions is to contact the relevant agencies to obtain factual information and their legal views on the subject of the request. Accordingly, we reached out to NCUA on July 30, 2025. We received NCUA's response on August 14, 2025.

BACKGROUND

NCUA's Role and Responsibilities

NCUA is an independent federal agency which "insures deposits at [FICUs], protects the members who own credit unions, and charters and regulates federal credit unions," and is under the management of the National Credit Union Administration Board. NCUA also administers the National Credit Union Share Insurance Fund which insures members' deposits in FICUs.

All natural person credit unions are required to submit reports to NCUA on a quarterly basis. These reports, known as Call Reports, are required by the Federal Credit Union Act and include information such as the credit union's assets, liabilities, and capital, as well as income and expenses. According to NCUA, "Call Report data serves a regulatory and public policy purpose by assisting . . . NCUA in fulfilling its mission of ensuring the safety and soundness of individual FICUs and the credit union system." Call Report data is made publicly available on NCUA's website and is published in both aggregated and disaggregated form.

In addition to the Call Report requirement, NCUA also carries out its oversight of federal credit unions through its examination, supervision, and enforcement programs. NCUA "is authorized to examine any insured credit union or any credit union making application for insurance of its accounts," which may include "all records, reports, contracts to which the credit union is a party, and information concerning the affairs of the credit union." Unlike data from quarterly Call Reports, examination reports are not publicly available and, according to NCUA, are exempt from release under the Freedom of Information Act (FOIA).

The Reporting Requirements

Beginning in the first quarter of calendar year 2024, NCUA required FICUs with more than \$1 billion in assets to submit their year-to-date revenues from overdraft and NSF fees in their quarterly Call Reports. NCUA continued to collect and analyze these data in Call Reports in 2024.

Then, in advance of the March 31, 2025, Call Report Cycle, NCUA announced that it would no longer be collecting overdraft and NSF fee data from FICUs as part of the quarterly Call Reports, thereby withdrawing the Reporting Requirements. NCUA's Press Statement, which identifies the withdrawal

of the Reporting Requirements as a "policy change," notes that "NCUA will collect overdraft and NSF fee data as part of the examination process. The agency will continue to publish overdraft and NSF fee income data in the aggregate once updates to its examination system are complete." As a result, information regarding overdraft and NSF fees for these credit unions would no longer be published on a public, individualized basis.

The Congressional Review Act

CRA, enacted in 1996 to strengthen congressional oversight of agency rulemaking, requires federal agencies to submit a report on each new rule to both houses of Congress and to the Comptroller General for review before a rule can take effect. The report must contain a copy of the rule, "a concise general statement relating to the rule," and the rule's proposed effective date. CRA allows Congress to review and disapprove of federal agency rules for a period of 60 days using special procedures. If a resolution of disapproval is enacted, then the new rule has no force or effect.

CRA adopts the definition of rule under the Administrative Procedure Act (APA), which states that a rule is "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency." However, CRA excludes three categories of rules from coverage: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

NCUA did not submit a CRA report to Congress or to the Comptroller General on the withdrawal of the Reporting Requirements. In its response to us, NCUA provided additional information and stated that it believed the withdrawal of the Reporting Requirements involves a change to an information collection under the Paperwork Reduction Act (PRA), and therefore is not a rule subject to review under CRA. As explained below, we conclude that the scope of CRA does not automatically exclude agency action subject to the PRA. Instead, the agency action must be analyzed under CRA.

DISCUSSION

At issue here is whether the withdrawal of the Reporting Requirements meets CRA's definition of a rule, which adopts APA's definition of a rule with three exceptions. As explained below, we conclude that the withdrawal of the Reporting Requirements meets the APA definition, and no exceptions apply. Therefore, the withdrawal of the Reporting Requirements is a rule subject to CRA's submission requirements.

The Withdrawal of the Reporting Requirements is a Rule Under APA

Applying APA's definition of a rule, the withdrawal of the Reporting Requirements meets all of the required elements. First, the withdrawal of the Reporting Requirements is an agency statement because it was effectuated through NCUA's Call Report update and was announced by NCUA's chairman in an agency press statement. NCUA is an independent federal agency within the executive branch. Second, the withdrawal of the Reporting Requirements is of future effect because it describes changes to the information certain FICUs are required to provide when submitting future Call Reports, beginning with the March 31, 2025, Call Report cycle.

Third, the changes to the Reporting Requirements implement or prescribe law or policy. An agency action implements, interprets, or prescribes law or policy when the

action prescribes new regulations, changes regulatory requirements or official policy, or when it alters how the agency will exercise its discretion, among other things. Here, the withdrawal of the Reporting Requirements changes how and whether NCUA will collect and publish overdraft and NSF fees data from regulated entities—a decision which NCUA itself described as a “policy change.” According to NCUA, while it may still obtain information from credit unions relating to these fees through other means at its discretion, it will no longer do so as part of the Call Report process.

In addition, under the previous reporting policy, overdraft and NSF fee data collected in the mandatory quarterly Call Reports was made publicly available on both an individual credit union basis and in the aggregate. Beginning with the March 31, 2025, Call Report cycle, however, the information would only be collected through the examination process—when initiated by NCUA—and published in aggregate form. NCUA’s decision to no longer collect overdraft and NSF fee data through the Call Report process and exclusively collect these data through its examination procedures implements and prescribes a new policy, in addition to implementing the provisions of the Federal Credit Union Act and NCUA’s accompanying regulations requiring credit unions to submit Call Reports.

In its response to us, NCUA asserted that the withdrawal of the Reporting Requirements is not a rule under the APA definition because it involves changes to an information collection subject to the PRA. According to NCUA, “[S]ubmission to Congress and GAO under . . . CRA is not required for information collections subject to [Office of Management and Budget (OMB)] review and approval under the PRA.” The PRA is intended to minimize the paperwork burden associated with the government’s collection of information from individuals, small businesses, and state and local governments, among others. The PRA imposes specific duties on federal agencies before an agency can collect information from 10 or more persons through identical questions or reporting requirements, such as requiring agencies to publish proposed information collections in the Federal Register and to solicit public comments, as well as submission of the proposed collection to the Office of Information and Regulatory Affairs (OIRA) within OMB for review. According to NCUA, it submitted the initial inclusion of the Reporting Requirements in the Call Report to OMB under the PRA in December 2023, and similarly submitted the withdrawal of the Reporting Requirements under the PRA in February 2025.

Contrary to NCUA’s statements, rules under APA and information collections under the PRA are not mutually exclusive categories of agency action. Unlike the distinction between orders and rules, which are mutually exclusive ways to implement agency actions, APA rules may include information collection requirements under the PRA, in which case they are subject to the requirements of both statutes. OMB’s implementing regulations confirm the overlapping nature of the two statutes. For example, in defining an information collection subject to the PRA, OMB’s regulations state that “[a]ny recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons. In addition, OMB’s regulations specify separate procedures for agencies to use when an information collection is contained in a proposed rule or current regulations. Those procedures expressly provide that when OMB disapproves or makes a change to an information collection in a cur-

rent regulation, the agency must “undertake such procedures as are necessary in compliance with [APA] and other applicable law to amend or rescind the collection of information, and shall notify the public through the Federal Register.”

In support of its argument that the withdrawal of the Reporting Requirements cannot be a rule subject to CRA’s submission requirements, NCUA cites to *National Fair Housing Alliance v. Carson*, arguing that information collections subject to the PRA are distinct from rules under APA. There, the U.S. Department of Housing and Urban Development (HUD) promulgated a 2015 rule, which, among other things, announced that HUD would be rolling out Assessment Tools for certain block grant program participants to use to demonstrate compliance with a statutory requirement to “affirmatively further fair housing” (AFFH requirement).

One of these Assessment Tools, for use by local governments, was published in the Federal Register in 2015 and underwent two rounds of public comments as well as approval from OMB in 2017, pursuant to the PRA. Subsequently, in 2018, HUD published a notice delaying the deadline for local governments to submit their AFFH compliance assessments using the Assessment Tool, and then later withdrew the use of the Assessment Tool altogether. Three nonprofit housing organizations sued HUD, arguing, in relevant part, that the delay and subsequent withdrawal of the local government Assessment Tool required notice-and-comment rulemaking procedures under APA before it could take effect.

In response, HUD argued that it was not required to undertake notice-and-comment procedures to withdraw the local government Assessment Tool, because the PRA “does not otherwise impose any requirements on the withdrawal of an information collection rule.” HUD argued that here, the local government Assessment Tool was “more properly described as [an] ‘information-collection device[] governed by [the PRA],’” and therefore the agency did not need to undertake notice-and-comment procedures before withdrawing it.

The District Court for the District of Columbia agreed with HUD, finding that the local government Assessment Tool was essentially a “questionnaire[,],” which the Supreme Court has previously noted is a “[t]ypical information collection request[.]” The district court here noted that “[r]ather than effecting a substantive change in existing law or policy, . . . the Assessment Tools [we]re meant to aid program participants in determining if and where conditions exist that may restrict fair housing choice and access to opportunity, and to guide program participants in considering certain factors constituting the AFFH requirement. In particular, the court disagreed with the plaintiffs’ assumption that the Assessment Tools were “legislative” or “substantive” rules that would therefore be subject to APA’s notice-and-comment requirements.

In sum, the court concluded that the action under review was not subject to APA’s notice-and-comment requirements. But the court did not determine that the action was not a rule under APA. Instead, the court reviewed the withdrawal of the Assessment Tool as an “agency action” under APA to determine whether it violated the APA’s requirements or was “arbitrary and capricious.” And in evaluating the plaintiffs’ claims, the court distinguished between two types of rules—a “legislative,” or “substantive,” rule versus a rule “more properly classified as an ‘information collection’ mechanism”—concluding that the latter type of “rule is not subject to APA notice-and-comment procedures.”

We have long held that the scope of CRA is not limited to rules subject to notice-and-comment requirements. In the joint statement of Senators Nickles, Reid, and Stevens issued shortly after the passage of CRA, the senators noted coverage of CRA was intended “to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review.” They went on to note that whether an action is covered by CRA “does not turn on whether a given agency must normally comply with the notice-and-comment provisions of the APA, or whether the rule at issue is subject to any other notice-and-comment procedures.” Rather, CRA’s coverage broadly extends to all actions satisfying the elements of the APA definition of a rule, so long as none of CRA’s three exceptions, discussed in detail below, applies.

Though some information collections subject to the PRA’s requirements may not be rules under APA and CRA, the fact that an agency action may be subject to the PRA does not automatically exempt it from CRA’s coverage. We still must look to see whether the action satisfies the elements of the APA definition of a rule. The distinction between legislative, or substantive, rules and other rules may bear upon whether an agency action is subject to APA’s notice-and-comment requirements, as the court in *National Fair Housing Alliance noted*, but the same distinction does not necessarily determine whether the action is covered by CRA. As explained above, the withdrawal of the Reporting Requirements is an agency statement of general applicability and future effect that implements, interprets, or prescribes law or policy. Therefore, the withdrawal of the Reporting Requirements satisfies the APA definition of a rule

CRA Exceptions

Having concluded that the withdrawal of the Reporting Requirements satisfies the APA definition of a rule, we must next determine whether any of CRA’s three exceptions apply. CRA provides for three types of rules that are not subject to its requirements: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

(1) Rule of Particular Applicability

First, the withdrawal of the Reporting Requirements is a rule of general applicability, rather than particular applicability. Rules of particular applicability are rules addressed to specific, identified persons or entities and determine actions that person or entity may or may not take, considering facts and circumstances specific to those persons or entities. Here, the withdrawal of the Reporting Requirements changes the requirements for all FICUs with over \$1 billion in assets. While it may be possible to identify which FICUs in fact satisfy this threshold amount and would therefore be subject to the changes in the Call Reports, the withdrawal of the Reporting Requirements applies to all entities satisfying those criteria. Therefore, it is a rule of general, rather than particular, applicability.

(2) Rule of Agency Management or Personnel

Second, the withdrawal of the Reporting Requirements is not a rule of agency management or personnel. We have previously held that rules that fall into this category relate to purely internal matters, such as controlling, directing, or supervising internal management issues. Because the withdrawal of the Reporting Requirements is concerned with the information regulated

entities must provide to NCUA and how interested parties may access that information, rather than management of NCUA itself or its personnel, it is not a rule of agency management or personnel.

(3) Rule of Agency Organization, Procedure, or Practice With No Substantial Effect on Non-Agency Parties

Third, the withdrawal of the Reporting Requirements is not a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. We have previously explained that this exception was modeled on the APA exception to notice-and-comment rulemaking requirements for “rules of agency organization, procedure, or practice,” which some courts have limited to rules that do not have a substantial impact on non-agency parties. The purpose of the APA exception is to ensure “that agencies retain latitude in organizing their internal operations,” so long as such rules do not alter the rights or interests of parties.

As an initial matter, we must first determine whether the withdrawal of the Reporting Requirements is a rule of agency organization, procedure, or practice. Rules of agency organization, procedure, or practice are “limited to an agency’s methods of operation or how the agency organizes its internal operations,” including the way that regulated entities submit information to an agency, how the agency reviews that information, and rules that affect the type or timing of actions the agency will take based on that submission. We have only applied this exception to rules that primarily focus on the internal operations of an agency.

Here, the withdrawal of the Reporting Requirements deals with how regulated entities present information regarding fee collection to NCUA as part of the Call Report process. NCUA will no longer collect this information from all FICUs with over \$1 billion in assets in the mandatory quarterly Call Report process, but instead will only collect this information through its private examination process. Therefore, the withdrawal of the Reporting Requirements is a rule of agency organization, procedure, or practice.

Next, we must determine whether the withdrawal of the Reporting Requirements substantially affects the rights or obligations of non-agency parties. We have previously determined that “[a] rule that does not alter the rights or interests of non-agency parties but merely alters the manner in which parties present themselves or their viewpoints to the agency does not substantially affect those parties’ rights or obligations.” For example, in B-329916, May 17, 2018, we evaluated an Internal Revenue Service (IRS) Statement announcing that it would be altering the timing of certain compliance checks it conducted on individual income tax returns. IRS’s previous policy was to assess compliance with certain statutory requirements after the tax return had been filed, IRS had processed the return, and the taxpayer paid taxes due or received a refund. In its Statement, IRS announced that it would instead be assessing compliance when the taxpayer filed the return, and that it would no longer accept noncompliant filings. There, we concluded that the IRS Statement did not substantially affect the rights or obligations of non-agency parties because the Statement merely altered the timing of IRS’s compliance assessment but did not alter the underlying substantive obligations of the taxpayers to comply with the relevant statutes. Because the Statement did not impose or confer new burdens, penalties, or rights on the taxpayers, we concluded that the Statement fell within that exception.

Similarly, in B-336217, Aug. 6, 2024, we concluded that a Supervision and Regulation

Letter from the Board of Governors of the Federal Reserve System (FRB) that, among other things, set a 30-day deadline for state member banks to submit a required notification to FRB relating to certain dollar token activities did not substantially affect the rights or obligations of non-agency parties. There, the state member banks already had an underlying obligation to report the required information to FRB relating to their dollar token activities. Therefore, the imposition of a new 30-day deadline for submission “merely affect[ed] the manner in which state member banks present[ed] themselves and their viewpoints to FRB and [did] not substantially affect the banks’ rights or obligations.”

Here, the withdrawal of the Reporting Requirements means that for FICUs with greater than \$1 billion in assets, data related to overdraft and NSF fees will no longer be collected in quarterly Call Reports at all and will no longer be publicly available at an individualized level. Instead, these credit unions will only be required to report this information to NCUA when NCUA chooses to engage in the examination process—the results of which will not be made public. Whereas in B-329916 and B-336217, only the timing or manner of submission to the agency was changed, here, the withdrawal of the Reporting Requirements removed the mandatory reporting requirement altogether and eliminated the publication of this information for individual credit unions. Interested parties will no longer have access to overdraft and NSF fee income information for individual credit unions, and, according to NCUA, this information is also exempt from release under FOIA.

In the Press Statement announcing the withdrawal of the Reporting Requirements, NCUA’s chairman discussed the effect of previously publishing this information for individual credit unions, stating that it “incentivized credit unions to avoid serving the needs of low-income and underserved communities” and that overdraft and NSF fees can be the best option in certain situations. The withdrawal of the Reporting Requirements was thus aimed at encouraging credit unions to use overdraft and NSF fees when appropriate, which affects the non-agency parties who would be subject to the imposition of such fees. We have previously held that rules that encourage regulated entities to change internal operations or policies have a substantial impact on non-agency parties. Similarly, the withdrawal of the Reporting Requirements substantially affects the rights or obligations of affected credit unions. As a result, no CRA exception applies to the withdrawal of the Reporting Requirements.

CONCLUSION

The withdrawal of the Reporting Requirements is a rule for purposes of CRA because it meets the APA definition of a rule and no CRA exception applies. Therefore, the withdrawal of the Reporting Requirements is subject to CRA’s requirement that it be submitted to Congress and the Comptroller General before it can take effect.

EDDA EMMANUELLI PEREZ,
General Counsel.

ADDITIONAL STATEMENTS

REMEMBERING RICHARD
SMALLWOOD

• Ms. ALSOBROOKS. Mr. President, Mr. Smallwood was once asked about the enduring impact of gospel music,

and he said, “It’s something about the spirit of gospel music that unifies.” Countless souls have been blessed by his decision to use his gifts in this way. Mr. Smallwood was a classically trained musician, an incredible singer, an amazing writer, and a brilliant composer. And in addition to his God-given gifts, he was a student of music. He was a perfectionist that cared about the details.

But the art that Mr. Smallwood created has never been above our heads or too complex to understand. He had a special ability to touch hearts on the most basic level because it came from his own. He gave us pure, genuine worship. As much as his creativity stretched the bounds of gospel music, his worship never failed to connect with us because his music always remembered Who is the center of our joy.

Mr. Smallwood’s gift led him to perform before Presidents and dignitaries and filled concert halls around the globe. But it also touches people who feel forgotten in their most isolated moments. It has changed people who never had the opportunity to meet him. His music not only speaks to us, but also speaks for us. It expresses our emotion. It describes our feelings of gratitude. And it translates for us in those low points when words fail us, and all we can do is lift our hands in total praise.

We may not be able to sing or play like him. We may not have his trained ear or his talented pen. But we share life’s joys and challenges. And his consistent theme was, no matter if we are in our mountaintop experience or if we are in need of healing in the valley, to worship anyhow.

So, for all the awards and honors that were given to Mr. Smallwood throughout his life, what endures is what he gave to us: the gift of timeless, unifying music; songs that people around the world can feel in any language; poetry that future generations will appreciate just as we have; melodies of healing and praise for every season of life.

I ask that you join me, the residents of Maryland, and souls across the globe in honoring and celebrating the life of Richard Smallwood.●

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 1834. An act to advance policy priorities that will break the gridlock.

H.R. 6500. An act to extend duty-free treatment provided with respect to imports from certain countries in Africa under the African Growth and Opportunity Act, to extend customs user fees, and for other purposes.

S. 3805. A bill to amend chapter 93 of title 18, United States Code, to prohibit obstruction of immigration laws by official interference.

EXECUTIVE AND OTHER
COMMUNICATIONS

The following communications were laid before the Senate, together with