



441 G St. N.W.
Washington, DC 20548

B-327325

September 3, 2015

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *National Credit Union Administration: Derivatives*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the National Credit Union Administration (NCUA) entitled “Derivatives” (RIN: 3133-AD90). We received the rule on August 20, 2015. It was published in the *Federal Register* as a final rule on January 31, 2014. 79 Fed. Reg. 5228.

This final rule permits credit unions to engage in limited derivatives activities for the purpose of mitigating interest rate risk. NCUA states that this rule applies only to federal credit unions. The final rule addresses permissible derivatives and characteristics, limits on derivatives, operational requirements, counterparty and margining requirements, and the procedures a credit union must follow to apply for derivatives authority.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). This final rule has a stated effective date of March 3, 2014. The rule was published in the *Federal Register* on January 31, 2014, and received on August 20, 2015. Therefore, this rule does not have the required 60-day delay in effective date.

Enclosed is our assessment of NCUA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. With the

exception of the required 60-day delay in effective date, our review of the procedural steps taken indicates that NCUA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Lara Rodriguez
Deputy General Counsel
National Credit Union Administration

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
NATIONAL CREDIT UNION ADMINISTRATION
ENTITLED
“DERIVATIVES”
(RIN: 3133-AD90)

(i) Cost-benefit analysis

The National Credit Union Administration (NCUA) did not include a cost-benefit analysis in this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

NCUA determined that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, NCUA is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On May 29, 2013, NCUA published a proposed rule. 78 Fed. Reg. 32,191. NCUA received 75 comments on the proposed rule including 28 from federal credit unions, 16 from federally insured, state-chartered credit unions, 13 from state credit union leagues, 9 from credit union service organizations and third-party vendors, 3 from trade associations, 3 from state supervisory authorities, 2 from law firms, and 1 from a federal home loan bank. NCUA responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

NCUA determined that this final rule contains information collection requirements under the Act. NCUA stated that it is submitting a copy of this rule to the Office of Management and Budget (OMB) for review and approval. NCUA estimates that the total annual burden will be 7,118.5 hours with a cost of \$4.6 million. NCUA also estimates that the one-time burden will be 4,852.5 hours with a cost of \$4.3 million.

Statutory authorization for the rule

NCUA promulgated this final rule under the authority of subsections 7, 8, and 15 of section 1757 of title 12, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, NCUA is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, NCUA is not subject to the Order. However, NCUA stated that it voluntarily complies with the Order to adhere to fundamental federalism principles. NCUA determined that this final rule will 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.