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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133-AF85

Nondiscrimination Requirements

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is publishing this final rule to remove a redundant and outdated regulation regarding nondiscrimination in lending. The regulation was intended to summarize the Fair Housing Act (FHA) prohibitions on discrimination related to real estate related loans, appraisals, and advertising. The Board's last substantive amendment to the regulation was finalized in 2001. Thus, the regulation does not reflect all case law or regulatory developments under the FHA, a statute that primarily falls under the jurisdiction of the Department of Housing and Urban Development (HUD) and continues to apply to federal credit unions (FCUs) regardless of this regulation. For these reasons, the Board is removing the regulation in its entirety.

DATES: This final rule is effective on [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: *Office of General Counsel:* Gira Bose, Senior Staff Attorney, at (703) 518-6540 or at 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Section 701.31 was first promulgated in 1972, and its purpose was to centralize and summarize the lending discrimination requirements applicable to FCUs.[1] The regulation includes nondiscrimination requirements for loans and appraisals; advertising, notices, and logos related to nondiscrimination; and guidelines for compliance with the FHA.[2] While § 701.31 has been updated periodically, it has not kept pace with regulatory and case law changes regarding lending discrimination or fair housing. In addition, § 701.31 is duplicative of other, more comprehensive, federal laws—principally the FHA and the Equal Credit Opportunity Act (ECOA)—and their implementing regulations, such as the Consumer Financial Protection Bureau's Regulation B. Some changes were made to § 701.31 in the 1980s and again in 2001; however, in the intervening years, the regulation has not kept pace with current law.

B. Legal Authority

The Board is issuing this final rule pursuant to its authority under the FCU Act. Under the FCU Act, NCUA is the chartering and supervisory authority for FCUs and the federal supervisory authority for federally insured credit unions (FICUs).[3] The FCU Act grants NCUA a broad mandate to issue regulations governing both FCUs and all FICUs.

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[1] This provision does not apply to federally insured, state-chartered credit unions.
[2] Title VIII of the Civil Rights Act of 1968; 42 U.S.C. 3601-3619.
[3] 12 U.S.C. 1752–1775.

Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.[4] Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.[5] Section 209 of the FCU Act is a plenary grant of regulatory authority to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.[6] Accordingly, the FCU Act grants the Board broad rulemaking authority to ensure that the federally insured credit union industry and the Share Insurance Fund remain safe and sound.

While the FCU Act authorizes the Board to adopt such regulations as it deems appropriate to administer the Act, it does not require the agency to promulgate regulations to assist credit unions in their compliance with the FHA or ECOA. Neither the FHA nor ECOA require any such NCUA rulemaking. Thus, the Board has determined that § 701.31 should be rescinded.

II. Final Rule

A. Overview

This final rule follows publication of the proposed rule and takes into consideration the comments received on the proposal. By the close of the public comment period on March 16, 2026, the Board received 16 public comments. Comments were submitted by three credit unions, seven state and regional credit union leagues, two national credit union trade associations, three individuals who did not disclose a group affiliation, and one think tank. After careful consideration of the issues raised by the commenters, the Board has decided to adopt the proposal without change.

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[4] 12 U.S.C. 1766(a).
[5] 12 U.S.C. 1787.
[6] 12 U.S.C. 1789.

B. Discussion of Public Comments

This section of the preamble discusses the significant issues raised by the commenters, and the Board's responses to the comments.

Twelve commenters expressed support for the proposal. Nine of these commenters supported the proposal without any conditions. The other three commenters expressed support but noted the importance of ensuring that eliminating this provision does not unintentionally reduce clarity regarding fair lending obligations. One commenter requested four clarifications in the event that NCUA removes the regulation: (1) that the preamble to the final rule confirm that removal of § 701.31 does not alter or weaken existing fair lending and nondiscrimination obligations, and that examiners will continue to evaluate compliance directly against FHA, ECOA, and Regulation B standards; (2) clarification that credit unions may update internal policies, procedures, and control documentation that reference § 701.31 through their normal governance and policy refresh cycles; (3) that the final rule preamble clearly state that fair housing poster and notice requirements established under HUD regulations remain fully applicable to FCUs; and (4) confirmation that nondiscrimination expectations related to appraisals remain fully governed by existing FHA and ECOA standards after removal of § 701.31 as clarification that the change is structural rather than substantive.

Two commenters opposed the proposal, one interpreting revocation of the rule to mean the agency supports discrimination in lending and the other commenter stating that revocation will lead to an increase in discrimination in lending. Finally, two commenters stated that, rather than just eliminating the rule, the agency should: (1) provide cross-references to Fair Housing Act regulations if §701.31 is removed; (2) issue updated supervisory guidance explaining fair-lending expectations; and (3) clarify in the final rule that removal of §701.31 does not alter credit unions' substantive obligations under federal nondiscrimination laws.

To be clear, this final rule is designed only to remove an outdated and redundant regulation that has not kept pace with current law. It does not reflect any reduction in NCUA's estimation of the importance of FCUs adhering to fair lending and nondiscrimination laws. And it does not in any way alter FCUs' legal obligations under the FHA, ECOA, or regulations promulgated by HUD or CFPB pursuant to those statutes. Those laws have applied, and continue to apply, to FCUs regardless of § 701.31. FHA's fair housing poster and notice requirements remain fully applicable to FCUs.[7] In order to accomplish this change without undue burden, when removing references to § 701.31, FCUs may rely on the methods and timeframes they typically use to update their systems. It is the Board's understanding that FCUs have not generally relied on § 701.31 to meet their obligations under FHA and ECOA. Therefore, the Board does not deem it necessary to issue cross-references to those statutes or issue updated supervisory expectations at this time. NCUA's website already hosts a Fair Lending Guide, which includes information and resources for compliance with FHA and ECOA.[8]

III. Regulatory Procedures

A. Executive Orders 12866, 13563, and 14192

Pursuant to Executive Order 12866 ("Regulatory Planning and Review"), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.[9] Executive Order 13563 ("Improving Regulation and Regulatory Review") supplements and reaffirms the principles, structures, and definitions governing

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[7] 24 CFR part 110.
[8] NCUA Fair Lending Guide (December 2025), *available at* https://ncua.gov/files/publications/regulations/fair-lending-guide.pdf.
[9] 58 FR 51735 (Oct. 4, 1993).

contemporary regulatory review established in Executive Order 12866.[10] This final rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OIRA has determined that this final rule is not a "significant regulatory action" as defined by section 3(f) of Executive Order 12866.

Executive Order 14192 ("Unleashing Prosperity Through Deregulation") requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.[11] This final rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866. This final rule is considered an Executive Order 14192 deregulatory action.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act[12] generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the agency makes such a certification, it shall publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.[13] For purposes of this analysis, NCUA considers small credit unions to be those having under $100 million in assets.[14] The Board fully considered the potential economic impacts of the regulatory amendments on small credit unions.

This final rule does not substantively alter credit unions' regulatory obligations. It is expected that removing §701.31 will simplify FCU compliance with fair lending and nondiscrimination requirements because it is eliminating an outdated regulation and a

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[10] 76 FR 3821 (Jan.21, 2011).
[11] 90 FR 9065 (Feb. 6, 2025).
[12] 5 U.S.C.601 *et seq*.
[13] 5 U.S.C. 605(b).
[14] 80 FR 57512 (Sept. 24, 2015).

potential source of confusion. Accordingly, NCUA certifies the final rule will not have a significant economic impact on a substantial number of small credit unions.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) generally provides that an agency may not conduct or sponsor, and not withstanding any other provision of law, a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The PRA applies to rulemaking in which an agency creates a new or amends existing information collection requirements. For purposes of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. NCUA has determined that the changes in the final rule do not create a new information collection or revise an existing information collection as defined by the PRA.

D. Executive Order 13132 on Federalism

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests.[15] NCUA, an agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. Section 701.31 applies to FCUs and not state-chartered credit unions. Therefore, this rulemaking will not have a direct effect on the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

E. Assessment of Federal Regulations and Policies on Families

The removal of § 701.31 from NCUA's regulations does not constitute a substantive change. Nondiscrimination and fair lending laws continue to apply to FCUs regardless of § 701.31. Therefore, NCUA has determined that this final rule will not

[15] 64 FR 43255 (Aug. 4, 1999).

affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[16]

F. Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (CRA), generally provides for congressional review of agency rules.[17] NCUA must submit a report to Congress and the Comptroller General when it issues a final rule, as defined by the CRA.[18] An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a "major rule." OIRA has determined that this rule is not a "major rule" within the meaning of the relevant sections of the CRA. NCUA will also file appropriate reports with Congress and the Comptroller General so this rule may be reviewed.

List of Subjects in 12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

By the National Credit Union Administration Board, this 12th day of November, 2026.

Melane Conyers-Ausbrooks,
Secretary of the Board.

[16] Public Law 105–277, 112 Stat. 2681 (1998).
[17] 5 U.S.C. 801-808.
[18] 5 U.S.C. 804(3).

For the reasons stated in the preamble, the NCUA Board amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. Revise the authority citation for part 701 to read as follows:

Authority:12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.35 is also authorized by 12 U.S.C. 4311-4312.

§ 701.31 [Removed and Reserved]

2. Remove and reserve § 701.31.

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