America's Credit Unions

Regulatory Comment: Prohibition on Use of Reputation Risk by NCUA

THE ISSUE:

On October 21, 2025, the National Credit Union Administration (NCUA) released a notice of proposed rulemaking to codify the elimination of reputation risk and equivalent concepts from its examination and supervisory program. The proposed rule would prohibit the agency from criticizing or taking adverse actions against an institution on the basis of reputation risk.

IMPACT TO CREDIT UNIONS:

Credit unions will benefit from greater consistency and predictability in examinations. The removal of reputation risk from the supervisory framework will reduce uncertainty because NCUA examiners will now focus on concrete, measurable core financial and operational risks rather than subjective perceptions that are inherent in reputational risk assessments.

KEY POINTS:

- The proposed rule would prohibit the NCUA from criticizing, formally or informally, rewarding, using in its decision-making process, or taking any adverse action against institutions on the basis of reputation risk.
- "Reputation risk" is defined as the risk that an action or activity of an institution could negatively impact public perception of the institution for reasons unrelated to the institution's financial or operational condition.
- The rule would also prohibit the agency from requiring a credit union to close an account or to refrain from providing an account, product, or service based on political, social, cultural, or religious views and beliefs, constitutionally protected speech, or bias against lawful, but politically disfavored, businesses.

- The proposed rule would not alter or affect the ability of an institution to make business decisions regarding its members, accountholders, or third-party arrangements and to manage them effectively.

ACTION NEEDED: Deadlines and contacts

Please use the comment link below to respond to America's Credit Unions' survey. This will help shape the discussion and better address your needs in our comment letters.

1. Comments due to America's Credit Unions by December 8, 2025—**Submit here**
2. Comments due to the NCUA by December 22, 2025
3. Questions? Contact Tyler Maron, Regulatory Affairs Counsel, America's Credit Unions
4. Agency contact: Michael Dondarski, Associate Director, Office of Examination and Insurance, at (703) 548-2638

QUESTIONS TO CONSIDER:

1. Do the prohibitions capture the types of actions that add undue subjectivity to supervision based on reputation risk?
2. Are there any other uses of reputation risk in supervision that should be addressed in this proposed rule?
3. Should the definition of "reputation risk" be broadened or narrowed? If so, how should the definition be broadened or narrowed?
4. Does the removal of reputation risk create any other unintended consequences for the agency or institutions? Would the proposed rule have any costs, benefits, or other effects that have not been identified?

BACKGROUND:

In August 2025, the President issued Executive Order 14331, titled "Guaranteeing Fair Banking for All Americans," which requires federal banking regulators to remove the use of reputational risk or equivalent concepts that could result in politicized or unlawful debanking. It also provides credit unions parity with banks following the Federal

Reserve's similar announcement that assessments of reputational risk would no longer be a component of bank examinations.

In June 2025, America's Credit Unions requested the NCUA to follow the Federal Reserve to consider adopting a similar supervisory policy to exclude references to reputational risk from supervisory exam programs. On September 26, 2025, the NCUA announced it has ceased using reputation risk and equivalent concepts in the examination and supervisory process. The Proposed Rule would codify the prohibition on use of reputational risk.

The NCUA argues that assessing reputation risk is subjective, and it may lead to confusion and is time-consuming to measure for both examiners and credit unions. The definition of reputation risk, the agency states, is ambiguous and lacks any measurable criteria. Because of the difficulty to quantitatively measure reputation risk or its impact, the agency concludes it is inappropriate to examine credit unions for this risk.

SECTION BY SECTION ANALYSIS

A. Prohibition of Use of Reputation Risk

Under the proposed rule, the NCUA would not:

- criticize, reward, or take adverse action on institutions on the basis of reputation risk;
- require credit unions to terminate, modify, or avoid contracts or business relationships based on reputation risk, nor enter into contracts based on reputation risk;
- restrict relationships within a credit union's field of membership on the basis of reputation risk; or
- make decisions based on a person's or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or the third party's involvement in politically disfavored but lawful business activities perceived to present reputation risk.

The proposed rule would allow the NCUA to continue to engage in criticism, supervisory feedback, or other actions to address traditional risk areas, including credit risk, interest rate risk, and transaction risk (including cybersecurity, information security, and illicit finance), provided that such actions are genuinely tied to safety and soundness, and not a pretext by examiners aimed at reputation risk.

The reputation use prohibition includes several exemptions. The proposed rule would not affect:

- member service requirements related to a credit union's field of membership;
- FCU Act field of membership rules;
- OFAC sanctions compliance,
- BSA/AML reporting requirements,
- Community Development Revolving Loan Fund administration; or
- Other Federal law mandates (e.g., character and fitness).

Under the proposed rule, the NCUA would make one conforming amendment to the NCUA's regulations to eliminate references to reputation risk. The conforming amendment would be made in the stress testing requirements for complex credit unions.

The other NCUA regulation codified in 12 CFR part 717 refers to reputation risk concerning certain identity theft prevention programs required by the Fair and Accurate Credit Transactions Act of 2003. However, by statute, guidelines and regulations for these programs must occur jointly across certain federal agencies, meaning part 717 is not being amended under this Proposed Rule. The NCUA will consider making changes to 12 CFR part 717 in a separate, joint rulemaking in the future. Until then, the NCUA expects to exercise its discretion in enforcing 12 CFR part 717 by using agency resources to assess compliance without regard to reputation risk.

B. Definitions

"Reputation risk" is defined as the risk that an action or activity of an institution could negatively impact public perception of the institution for reasons unrelated to the institution's financial or operational condition. The definition also includes any similar risk based around concerns regarding the public's perception of the institution beyond the scope of other risks in the agency's supervisory framework. However, the definition excludes perceptions tied to financial health (such as public perceptions on insufficient liquidity) because they relate to other risk categories.

“Adverse action” is defined as:

- NCUA-initiated actions only (excludes state-only actions)
  - With respect to joint exams: if a state regulator examines for “reputation risk,” NCUA will not participate or enforce related state actions.
- Negative feedback of any kind: exam report, document of resolution, oral feedback, enforcement action
- Any NCUA employee action, including informal or preliminary communications
- Downgrade—or contribution to downgrade—of any supervisory rating (incl. CAMELS)
- Approval/denial of a filing based on “reputation risk”
- Discretionary Prompt Corrective Action (PCA) measures based on “reputation risk”
  - Exception: where federal law expressly requires consideration of reputation-related criteria
- Conditions attached to an approval; added approval requirements; other heightened requirements tied to “reputation risk”
- Catch-all: approvals/denials of applications, waivers, permissions, or other regulatory decisions affecting a party
- Oral feedback, approval conditions, new approval requirements, or other heightened requirements intended to force remediation of perceived reputation risk

“**Doing business with”** is broadly construed to include business relationships with credit union members, accountholders, and third-party service providers. This term is intended to include both existing business relationships and prospective business relations.

“Institution-affiliated party” means:

(1) any committee member, director, officer, or employee of, or agent for, an insured credit union;

(2) any consultant, joint venture partner, and any other person as determined by the Board (by regulation or on a case-by-case basis) who participates in the conduct of the affairs of an insured credit union; and

(3) any independent contractor (including any attorney, appraiser, or accountant)

who knowingly or recklessly participates in

(A) any violation of any law or regulation;

(B) any breach of fiduciary duty; or

(C) any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insure credit union.