

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Commerce/ Credit Union Division

RULE CITATION: 04 NCAC 06C .0304

DEADLINE FOR RECEIPT: Friday, August 6, 2021

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 5, does your regulated public know what "safe and sound operation" means?

In (4), line 15, as well as (6), line 18, who will determine what is "commensurate" here?

In (6), line 20, please replace "their" with "his or her" (since on line 19, you referred to "a" committee member, director, etc.)

On line 21, consider deleting "but not limited to"

And on lines 21-23, I take it your regulated public is familiar with these organizations?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 23, 2021

1 04 NCAC 06C .0304 is amended as published in 35:22 NCR 2404 as follows:
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3 **04 NCAC 06C .0304 MANAGEMENT DUTIES**

4 All credit unions shall conduct their business and the selection of their employees using a high degree of
5 management and business skills to assure the safe and sound operation of the credit union. ~~To maintain familiarity~~
6 ~~with current developments in the field of credit union management, services, and operations as may be necessary, all~~
7 ~~management personnel and employees of credit unions may avail themselves of the educational opportunities as~~
8 ~~may be provided by the League, the Credit Union Division, other trade associations, credit union support groups,~~
9 ~~and other industry training organizations.~~ Management shall be responsible for:

10 (1) implementing the policies established by the board of directors;

11 (2) ensuring the accuracy of the credit union's financial statements, reports, and any other supporting
12 documents;

13 (3) adopting and implementing an annual budget;

14 (4) developing and implementing a written plan that guides the strategic direction of the credit union and
15 that is also commensurate with the credit union's size and complexity;

16 (5) conducting performance evaluations of all employees of the credit union; and

17 (6) ensuring all directors, committee members, and employees of the credit union receive training through
18 educational opportunities commensurate with their responsibilities and duties and document completion of
19 the training. In the event examiners find that a director, committee member, or employee of the credit
20 union has not received training commensurate with their responsibilities and duties, the Credit Union
21 Division shall require training. Educational opportunities may be obtained from but not limited to the
22 League, the Credit Union Division, other trade associations, credit union support groups, and other industry
23 training organizations.

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26 *History Note: Authority G.S. 54-109.12; 54-109.19; 54-109.35; ~~54-109.36~~; 54-109.92;*

27 *Eff. February 1, 1976;*

28 *Readopted Eff. April 4, 1978;*

29 *Amended Eff. October 1, 1983;*

30 *Readopted Eff. February 1, 2018;*

31 *Amended Eff. September 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Commerce/ Credit Union Division

RULE CITATION: 04 NCAC 06C .0305

DEADLINE FOR RECEIPT: Friday, August 6, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a)(2), line 16, where you refer to "State-chartered" are you referring specifically to NC charters?

In (b), lines 25, were these changes made in response to public comment?

On line 25, co-inhabitants of what? The household?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 23, 2021

1 04 NCAC 06C .0305 is amended with changes as published in 35:22 NCR 2405 as follows:

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3 **04 NCAC 06C .0305 INDEPENDENT AUDITS**

4 ~~(a) An audit of each state-chartered credit unions shall occur at least once each calendar year and shall cover the period~~
5 ~~elapsed since the last audit. The audit will be performed using generally accepted auditing procedures and standards. It~~
6 ~~is the responsibility of the supervisory committee, or board of directors if there is no supervisory committee, to ensure~~
7 ~~that the annual audit is timely, that generally accepted auditing standards are used, that an adequate audit of the credit~~
8 ~~union records is conducted, and the audit report is promptly prepared and submitted to the board of directors.~~
9 ~~Workpapers of the supervisory committee and/or its independent auditors shall be made available for review by the~~
10 ~~Credit Union Division.~~

11 (a) An audit of each State-chartered credit union shall occur at least once each calendar year and shall cover the period
12 elapsed since the last audit. The audit shall be performed using generally accepted auditing standards. It shall be the
13 responsibility of the supervisory committee, or board of directors if there is no supervisory committee, to ensure that:

14 (1) generally accepted auditing standards are used;

15 (2) an audit of the credit union records is conducted using the minimum procedures applicable to federally
16 insured State-chartered credit unions as set forth in 12 CFR Part 715, which is herein incorporated by reference,
17 including subsequent amendments and editions, and may be found at no cost at www.ecfr.gov; and

18 (3) the audit report is prepared and submitted to the board of directors.

19 Workpapers of the supervisory committee or its independent auditors shall be made available for review by the Credit
20 Union Division.

21 (b) Compensated auditors performing audits for credit unions ~~must~~ shall be independent of the credit union's employees,
22 members of the board of directors, supervisory committee, credit committee, ~~and/or~~ or the credit union's loan officers
23 and members of their immediate families. For the purposes of this Rule, "member of their immediate families" includes
24 immediate blood relatives, as well as those family members attained by marriage, including spouses, biological children,
25 adopted children, and ~~step-children, step-children, domestic partners, and co-habitants.~~ Compensated auditors must be a
26 Certified Public Accountant (CPA), or a bonded auditing firm, or a person who is bonded or has accountants'
27 professional liability insurance coverage.

28 ~~(e) Annual verification of depositors' and members' accounts will be done in conjunction with the annual audit and shall~~
29 ~~be made by either a controlled verification of 100 percent of share, deposit and loan accounts or a controlled random~~
30 ~~sampling method that provides assurance that the General Ledger accounts are fairly stated and that members' and~~
31 ~~depositors' accounts are properly safeguarded.~~

32 (c) The supervisory committee, or board of directors if there is no supervisory committee, shall verify or cause to be
33 verified all depositors' and members' accounts annually. The results of the member account verification shall be
34 submitted to the board of directors for review. The verification of members' accounts shall be made using either of the
35 following methods:

36 (1) a controlled verification of 100 percent of share, deposit, and loan accounts; or

37 (2) a controlled random sampling method that provides assurance that the general ledger accounts are
38 fairly stated and that members' and depositors' accounts are properly safeguarded.

1 (d) A credit union shall obtain an outside independent audit by a ~~certified public accountant~~ CPA for any fiscal year
2 during ~~which~~ which: ~~any one of the following is present:~~

- 3 (1) the required annual audit was not performed or was not in accordance with Paragraphs (a), (b), ~~and/or~~
4 or (c) of this Rule; or
- 5 (2) the credit union has experienced serious ~~and/or or~~ or persistent recordkeeping deficiencies. For the
6 purposes of this Subparagraph, “persistent” ~~Persistent~~ means continuing to exist or endure. For the
7 purposes of this Subparagraph, “serious” ~~Serious~~ is when the Division has ~~there is given~~ cause for
8 concern that the financial condition is not fairly and accurately presented ~~and/or or~~ or that management
9 practices are not sufficient to safeguard the assets of the credit union.

10 When a credit union fails to comply with this Rule, the ~~administrator~~ Administrator has the authority to engage
11 an outside ~~certified public accountant~~ CPA at the credit union’s expense to conduct the required annual audit.

12 ~~(e) This Rule shall not in any manner modify or limit the administrator’s responsibility or authority to examine credit~~
13 ~~unions as set forth in G.S. 54-109.16, and it shall not modify or limit the administrator’s authority to assess the cost of~~
14 ~~the examination against any credit union.~~

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16 *History Note: Authority G.S. 54-109.12; ~~54-109.17~~; 54-109.35(b); 54-109.49;*

17 *Eff. February 1, 1976;*

18 *Readopted Eff. April 4, 1978;*

19 *Amended Eff. October 1, 1991; October 1, 1983; May 1, 1983; January 1, 1983;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6,*
21 *2016.*

22 *Amended Eff. September 1, 2021.*