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Behind the Scenes, Some Lawmakers Lobby to Change the Volcker Rule, New York Times

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National Credit Union Administration
NCUA Proposes Rule Expanding Applicability of Small Entity Consideration Under Regulatory Flexibility Act

The National Credit Union Administration published a proposed rule that would raise the threshold for which Federally-Insured Credit Unions are considered “small entities” for the purposes of the Regulatory Flexibility Act (RFA). The RFA requires federal agencies to consider the impact of proposed and final rules on small entities, and requires NCUA to prepare an analysis to describe significant economic impacts that proposed rules could be expected to have on small entities. Since 2003, “small entity” in this context has been defined as a credit union with less than $10 million in assets; NCUA proposes in this rule to redefine “small entity” as a credit union with less than $30 million in assets, expanding the applicability of RFA requirements for rulemaking. Enlarging this definition will require NCUA to undertake more regulatory analyses for rules that will significantly affect small entities. NCUA speculates that finalizing this rule would “result in more robust consideration of regulatory relief for more small credit unions in future rulemakings. The amended regulations would grant immediate and prospective relief from regulatory burden to a larger group of small credit unions.” Comments are due on October 26th.

Small Business Administration
SBA Final Rule Redefines Which Health Care and Social Assistance Businesses are “Small”

The Small Business Administration published a final rule increasing small business size standards “for 28 industries in North American Industry Classification System (NAICS) Sector 62, Health Care and Social Assistance, and retaining the current standards for the remaining 11 industries in that Sector. As part of its ongoing comprehensive review of all size standards, SBA evaluated every industry in NAICS Sector 62 to determine whether the existing size standards should be retained or revised.” Implementing this new definition, an additional 4,100 firms are estimated by SBA to be considered small businesses. “This will result in an increase in the small business share of total industry receipts for the Sector from about 30 percent under the current size standard to nearly 32 percent under the proposed standards. The revised size standards will enable more small businesses to retain their small business status for a longer period. Many have lost their eligibility and find it difficult to compete at current size standards with companies that are significantly larger than they are.”

Determination of which businesses are “small businesses” is necessary because the purpose of the Small Business Act is to help small businesses compete in the marketplace, necessitating standards to define which businesses qualify as small businesses. Businesses that will acquire small business status because of this rule will become newly eligible for Federal small business assistance programs, including the SBA’s financial assistance programs, economic injury disaster loans, and Federal procurement programs intended for small businesses.

SBA Final Rule Expands “Small Business” Size Standards for Real Estate and Leasing Industries

The Small Business Administration published a final rule increasing small business size standards “for 21 industries and one sub-industry in North American Industry Classification System (NAICS) Sector 53, Real Estate and Rental and Leasing, and retaining the current standards for the remaining four industries in that Sector. As part of its ongoing comprehensive review of all size standards, SBA evaluated all size standards for industries in NAICS Sector 53 to determine whether they should be retained or revised.” This change in definition will classify an additional 13,000 firms as small businesses, or 5 percent of the total firms in this industry sector with receipts-based size standards. Determination of which businesses are “small businesses” is necessary because the purpose of the Small Business Act is to help small businesses compete in the marketplace, necessitating standards to define which businesses qualify as small businesses. Businesses that will acquire small business status because of this rule will become newly eligible for Federal small business assistance programs, including the SBA’s financial assistance programs, economic injury disaster loans, and Federal procurement programs intended for small businesses.
SBA Final Rule to Expand “Small Business” Size Standards for Educational Services Industry

The Small Business Administration published a final rule increasing small business size standards “for nine industries in North American Industry Classification System (NAICS) Sector 61, Educational Services, and retaining the current size standards for the remaining eight industries and one sub-industry (“exception”) in this Sector. As part of its ongoing comprehensive review of all size standards, SBA evaluated every industry in NAICS Sector 61 to determine whether the existing size standards should be retained or revised.” Altering this definition will classify an additional 1,500 firms as “small businesses,” which will “result in an increase in the small business share of total industry receipts in those industries from about 18 percent under the current size standards to 23 percent under the revised size standards.” Determination of which businesses are “small businesses” is necessary because the purpose of the Small Business Act is to help small businesses compete in the marketplace, necessitating standards to define which businesses qualify as small businesses. Businesses that will acquire small business status because of this rule will become newly eligible for Federal small business assistance programs, including the SBA's financial assistance programs, economic injury disaster loans, and Federal procurement programs intended for small businesses.

Department of Interior
NIGC Finalizes Gaming Rule for Class II Gaming in Indian Casinos

The National Indian Gaming Commission (NIGC) published a final rule amending its existing minimum internal control standards (MICS) for Class II gaming, including card games, bingo, drop and count, surveillance, and gaming promotions and player tracking. Past Commission rules established minimum internal control standards to reduce the risk of loss to casinos caused by customer or employee access to cash and cash equivalents by establishing “standards and procedures that govern cash handling, documentation, game integrity, auditing, surveillance, and variances, as well as other areas.” The Commission notes that, pertaining to MICS for Class II gaming, “Commenters [had] suggested removing the procedural requirements and measuring compliance by the extent to which tribes have successfully achieved a regulatory standard, rather than the extent to which tribes have followed step-by-step procedures in the MICS. The Commission declines to take this approach and believes the standards set forth in this part are both appropriate and sufficiently detailed to be implemented by tribes.” Despite many commenters’ concern that these standards may limit technology within casinos, the “Commission declines to add a general statement that nothing in this part is intended to limit technology,” and instead says so in the rule’s supporting documents. Commenters had also requested that the Commission include in the text of the rule language recognizing that tribes are the primary regulatory authority for Class II gaming; the Commission, once again, declined.

Department of Veterans Affairs

VA Direct Final Rule Exempts In-Home Telehealth Care from Copayment Requirements

The Department of Veterans Affairs published the finalization of a direct final rule amending the VA’s regulations governing VA services not subject to copayment requirements for inpatient hospital care or outpatient medical care. Specifically, the direct final rule exempts in-home video telehealth care from required copayments. In the VA’s Impact Analysis for the rule, the Department explained that this change will offer veterans an incentive to use alternative approaches to VA health care, such as in-home telehealth care, with only a minimal loss of revenues to the VA. The direct final rule did not receive any adverse comment, and is being finally promulgated without change.

Department of Agriculture

APHIS Finalizes Rule Expanding Plum Pox Compensation

The Animal and Plant Health Inspection Service finalized an interim final rule to compensate owners of non-fruit-bearing ornamental tree nurseries whose trees are required by state or federal governments to be destroyed in order to prevent the spread of plum pox. The final rule also increases the allowable compensation for owners of commercial stone fruit orchards and fruit tree nurseries whose trees are destroyed in the state and federal efforts to eradicate plum pox. Two commenters—a state agricultural agency an organization of state plant regulatory agencies—generally supported this action. One additional commenter asked that the Agency define a “commercial” fruit orchard or nursery, whichAPHIS declined to do. The interim rule was finalized without change.
The Department of Agriculture announced that the Department had passed $250 million in loan guarantees for smart grid technologies in Virginia, Iowa, Minnesota, Texas, Missouri, and four other states. “The funding helps electric utilities upgrade, expand, maintain and replace rural America's electric infrastructure. USDA Rural Development also funds energy conservation and renewable energy projects... Rural Development has an active portfolio of more than $172 billion in loans and loan guarantees. These programs are designed to improve the economic stability of rural communities, businesses, residents, farmers and ranchers and improve the quality of life in rural America.”