

This rule was filed as 12 NMAC 17.5.

**TITLE 12 TRADE, COMMERCE AND BANKING**  
**CHAPTER 17 CREDIT UNIONS**  
**PART 5 TRUSTEES AND CUSTODIANS OF PENSION PLANS**

**12.17.5.1 ISSUING AGENCY:** Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michael's Drive, Santa Fe, New Mexico 87504. Telephone No. (505) 827-7100.  
[10/19/90; 9/30/97; Recompiled 10/15/01]

**12.17.5.2 SCOPE:** All credit unions chartered by the state of New Mexico.  
[10/19/90; 9/30/97; Recompiled 10/15/01]

**12.17.5.3 STATUTORY AUTHORITY:** Sections 58-11-20 and 58-11-54 NMSA 1978.  
[6/19/87; 9/30/97; Recompiled 10/15/01]

**12.17.5.4 DURATION:** Permanent.  
[10/19/90; 9/30/97; Recompiled 10/15/01]

**12.17.5.5 EFFECTIVE DATE:** October 19, 1990, unless a later date is cited at the end of a section or paragraph. Reformatted in NMAC format 9/30/97.  
[10/19/90; 9/30/97; Recompiled 10/15/01]  
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

**12.17.5.6 OBJECTIVE:** The objective of this part is to enable credit unions to act as trustees or custodians of retirement plans of their members.  
[10/19/90; 9/30/97; Recompiled 10/15/01]

**12.17.5.7 DEFINITIONS:** [RESERVED]

**12.17.5.8 TRUSTEES AND CUSTODIANS OF PENSION PLANS:** A credit union may act as trustee or custodian of individual retirement plans of its members established pursuant to the Employee Retirement Income Security Act of 1974 or self-employed retirement plans established pursuant to the Self-employed Individuals Retirement Act of 1962, provided that the following conditions are met:

A. all contributions of the funds are initially made to a share, share certificate or deposit account in the credit union;

B. any subsequent transfer of funds to other assets is solely at the direction of the member, and the credit union exercises no investment discretion and provides no investment advice with respect to the plan assets (i.e., the credit union performs only custodial duties);

C. the member is clearly notified of the fact that share and deposit insurance coverage by the national credit union administration is limited to funds held in share, share certificate or deposit accounts of the credit union; and

D. the credit union complies with all applicable provisions of the Federal Credit Union Act, the national credit union administration rules and regulations as applied by the director of the financial institutions division, and applicable laws and regulations as may be promulgated by the secretary of labor, the secretary of the treasury or any other authority exercising jurisdiction over such trust or custodial accounts.  
[10/19/90; 9/30/97; Recompiled 10/15/01]

**HISTORY OF 12.17.5 NMAC:**

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

FID Regulation No. 86-2, Trustees and Custodians of Pension Plans, filed 4/3/86; and  
Regulation 90-5CU, Trustees and Custodians of Pension Plans, filed 11/14/90.

History of Repealed Material: [RESERVED]