

National Credit Union Administration
1SUPPORTING STATEMENT

Fidelity Bond and Insurance Coverage
(Section 704.18 and Part 713)

OMB No. 3133-0170

Summary of rulemaking

The NCUA published a notice of proposed rulemaking (NPRM) on November 23, 2018, at 83 FR 59318, to strengthen a board of directors' oversight of a credit union's fidelity bond coverage; ensure there is an adequate discovery period following a credit union's liquidation; formalize a 2017 legal opinion that permits a natural person credit union's fidelity bond to include coverage for certain credit union service organizations (CUSOs), and clarify the documents subject to Board approval and require all bond forms receive Board approval every ten years. This proposed information collection requirement has been incorporated into this submission.

A. JUSTIFICATION

1. Circumstances that make the collection of information necessary.

The Federal Credit Union Act (at 12 U.S.C. 1761b(2)) requires that the boards of federal credit unions (FCU) arrange for adequate fidelity coverage for officers and employees having custody of or responsibility for handling funds. Part 704 and Part 713 of the National Credit Union Administration's (NCUA) regulations implement these requirements by, among other things, describing the responsibilities of credit union boards of directors in this area and establishing coverage and deductible limits.

The regulations contain information collection requirements. These information collections enable the NCUA to ensure the fidelity bond coverage meets the minimal regulatory requirements established by NCUA and provides adequate protection against potential losses due to insider abuse such as fraud and embezzlement.

2. Purpose and use of the information collection.

The information collection requirements in these regulations are used by the NCUA to determine whether any deviations from standard practice by a federally insured credit union (FICU) is a risk to the safety and soundness of the institution and, by extension, the National Credit Union Share Insurance Fund (NCUSIF).

The regulations require that all bond forms must receive NCUA approval before a FICU may use them (§704.18(c) and §713.4(a) and (c)). This includes any riders, endorsements, renewals, or other documents that limit coverage of the approved bond form. Sections 704.18(c) and 713.4(d) state that NCUA approval on all bond forms expires after a period of 10 years from the date of the NCUA approval or re-approval of its use. NCUA approval of a bond is required before a bond form may be used by a FICU. If a natural person FICU wishes to reduce its required fidelity bond coverage, it must seek approval to do so, in writing, at least 20 days before the proposed reduction would go into effect (§713.5(e)).

The regulation allows natural person FICUs to increase its deductibles if it meets certain risk and capital requirements. Any deductible in excess of the amounts specified under §713.6(a)(1) must receive prior written permission from NCUA (§713.6(a)(2)). However, the regulation calls for an FICU that falls out of eligibility for the higher deductible to obtain a policy with the required coverage and to notify the appropriate NCUA regional office of its changed status and confirming that it has obtained the required coverage (§713.6(c)). Similarly, corporate credit unions must have the written approval of the NCUA at least 30 calendar days prior to the effective date of any change to its deductible that are in excess of the amounts specified in §704.18(e)(1) (§704.18(e)(2)). The information will be used by the NCUA in its efforts to monitor FICUs for safe and sound operations and is critically important in helping to avert or minimize losses to the NCUSIF, which provides share insurance for all FICUs.

Adequate insurance coverage can avert a FICU failure due to insolvency; alternatively, where insolvency and failure do occur, the NCUA, in its capacity as liquidator for the failed FICU, can recoup some of its losses through a claim under an insurance policy.

3. Use of information technology.

Credit unions and bond issuers can provide the required notifications and seek the required approvals through electronic means. However, the specifics motivating an individual application for an alternative approach will be case specific and not amenable to automation.

4. Duplication of information.

For natural person FICUs, eligibility for a higher deductible is a function, in part, of the credit union's financial condition. Several NCUA rules already call for the monitoring and reporting of this information, and such monitoring is a matter of good business practice in any case. FICUs may rely on the form 5300 call report, which must be filed quarterly, in reviewing whether they continue to qualify for the higher deductible. As noted in the response to the preceding section, however, the specific notice to NCUA about having obtained the required coverage is unique and not addressed in any of our other rules.

5. Efforts to reduce burden on small entities.

The burden associated with the notification requirements are minimal, regardless of size. The burden represents the minimum necessary to provide flexibility to FICUs while maintaining some level of oversight over safety and soundness.

6. Consequences of not conducting the collection.

The requirements to seek bond approval or to reduce the required level of coverage are required to ensure that any deviation from the minimum legal coverage requirements are justified by the circumstances faced by the FICU seeking such approval. Without requiring notification and approval of departures from the minimums fidelity bond standards, fidelity bond standards become difficult to enforce and lose their effectiveness in protecting individual FICUs and the NCUSIF.

The requirement that NCUA approval sunsets on all bond forms after 10 years, and bond forms must be re-approved after the 10-year sunset, will ensure that the bond forms comply with current regulations.

The requirements in Part 713 for written confirmation to the regional office are triggered only when requesting permission for deductibles in excess of the amount specified in the regulations or a change in the FICU's financial condition requires it to lower its deductible. The requirements in Part 704 are applicable only when a corporate credit union requests permission to use a deductible in excess of the minimums provided by the regulation. Failure to provide this confirmation to the NCUA would diminish the NCUA's knowledge about the adequacy of bond coverage and could result in losses to the NCUSIF.

7. Inconsistencies with guidelines in 5 CFR 1320.5(d)(2).

No special circumstances exist that would cause this collection to be conducted in a manner inconsistent with OMB guidelines.

8. Efforts to consult with outside the agency.

A Paperwork Reduction Act (PRA) notice was published in the preamble of the proposed rulemaking on November 23, 2018, at 83 FR 59318, providing an opportunity for the public to comment on the information collection requirements prescribed by this rule. Comments will be summarized and addressed in the PRA submission associated with the final rulemaking.

9. Payment or gift to respondents.

NCUA will not make any payment, gift or remuneration to anyone in connection with the information collection.

10. Assurance of confidentiality.

There is no assurance of confidentiality other than that provided by law. Certain financial information about FICUs is publicly available through the filing of quarterly call reports. However, a FICU’s eligibility for a higher fidelity bond and insurance deductible is not public information. Like information contained in an agency examination report, this information is exempt from public disclosure under exemption 8 of the Freedom of Information Act. 5 U.S.C. 522(b)(8).

11. Questions of a sensitive nature.

The information collection does not include any sensitive questions or collect any personally identifiable information (PII).

12. Burden of information collection.

12 CFR	Information Collection Activity	# Respondents	Frequency	Total Annual Responses	Hours per Response	Total Annual Burden Hours
Corporate Credit Unions						
704.18(c)(3)	Obtain prior approval from NCUA to use bond form not on the approved list; amended or changed bond form since NCUA approved, and any rider, endorsement, renewal, or other document that limits coverage of approved bond form.	5	1	5	1	5
	NCUA approval on all bond forms expired after a period of 10 years from the date of NCUA approval or reappraised use of the bond form.	2	1	2	1	2
704.18(c)(5)	Written notification to NCUA by surety if bond is terminated in or deductible is increased above the permissible limits.	1	1	1	1	1
704.18(e)(2)	Obtain prior written approval for deductibles in excess of amounts identified in 704.18(e).	1	1	1	1	1
Natural Person Credit Unions						
713.4(a) & (c)	Obtain prior approval from NCUA to use bond form not on the approved list; amended or changed bond form since NCUA approved, and any rider, endorsement, renewal, or other document that limits coverage of approved bond form.	5	1	5	1	5
713.4(d)	NCUA approval on all bond forms expired after a period of 10 years from the date of NCUA approval or reappraised use of the bond form.	2	1	2	1	2
713.5(e)	Obtain prior written approval for a reduction in the required bond coverage.	1	1	1	1	1
713.6(a)(2)	Prior written permission for deductibles in excess of amounts identified in 713.6(a)(1)	1	1	1	1	1
713.6(c)	Notice in Change of Status disqualifying the CU from use of higher deductible limit	1	1	1	1	1
TOTALS		19		19		19

The resource cost of this collection (measured in dollars) is estimated by multiplying the total burden hours by \$35 – the approximate loaded average wage rate of credit union employees – resulting in an estimated cost to respondents of \$665.

13. Capital start-up or on-going operation and maintenance costs.

There are no startup or operations and maintenance costs associated with this collection.

14. Annualized costs to the Federal government.

We estimate that the cost to review and approve requests submitted under Parts 704 and 713 to be roughly equivalent to the time it takes the public to prepare such a request. This results in an estimated cost to the Federal Government of \$1,568.

15. Changes to burden.

The new information collection burden associated with obtaining NCUA approval on all bond forms expired after a period of 10 years from the date of NCUA approval or reappraised of its use is minimal, affecting an estimated four entities annually; for an increase of four hours attributed to this program change. Adjustments have been made to this information collection to capture current fidelity bond coverage requirements codified under §704.18 and 713. Total burden requested is 19 hours.

16. Information collection planned for statistical purposes.

This information will not be used for statistical purposes.

17. Request non-display the expiration date of the OMB control number.

There is no physical form for this submission of information. The OMB Control Number, along with the expiration date, will be displayed on the Federal government electronic PRA docket at www.reginfo.gov.

18. Exceptions to Certification for Purposes of Paperwork Reduction Act Submissions

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.