

National Credit Union Administration
SUPPORTING STATEMENT

Federal Credit Union Bylaws
(Appendix A to Part 701)
OMB No. 3133-0052

Summary of rulemaking:

The NCUA published a notice of proposed rulemaking (NPRM) on November 13, 2018, at 83 FR 56640, to update, clarify, and simplify the federal credit union (FCU) bylaws and is proposing changes that will update and conform the FCU Bylaws to legal opinions issued by the NCUA's Office of General Counsel and/or provide greater flexibility to FCUs. Finally, the Board is proposing other changes that are designed to remove outdated or obsolete provisions.

The proposal will amend information collection requirements under several articles to encourage greater participation by members by requiring FCU to post annual meeting notices in a conspicuous place and in the FCU's physical location, publicize the call for nominations to all members, and post this information on FCU website along with the bylaws and any adopting amendments to their website, if applicable.

A. JUSTIFICATION

1. Circumstances that make the collection of information necessary.

Section 108 of the Federal Credit Union (FCU) Act (12 U.S.C. 1758) requires the National Credit Union Administration (NCUA) Board to prepare bylaws before an FCU's charter is complete. The form bylaws are established to simplify the organization of a FCU and establish uniformity regarding FCU operations and member rights. The NCUA Board adopted the Bylaws and incorporated them into NCUA's regulations at 12 CFR 701.2 and as Appendix A to Part 701, in 2007.

2. Purpose and use of the information collection.

The bylaws address a broad range of matters concerning: an FCU's organization and governance; the FCU's relationship to members; and the procedures and rules an FCU follows. The FCU uses the information it collects and maintains pursuant to the bylaws in its operations and to provide services to its members. The NCUA uses the information both to regulate FCUs to protect consumers and monitor their safety and soundness to protect the National Credit Union Share Insurance Fund.

3. Use of information technology.

FCUs use available information technology to retain records and to provide records to NCUA electronically.

4. Duplication of information.

The bylaws supplement broad provisions of: an FCU's charter, which establishes an FCU's existence; the FCU Act, which establishes FCU powers; and other NCUA regulations, which implement the FCU Act. The bylaws' information collection requirements supplement the ones in these aforementioned provisions, but are not duplicated anywhere.

5. Efforts to reduce burden on small entities.

There is no impact on small entities.

6. Consequences of not conducting the information collection.

As a legal matter, an FCU's bylaws must conform to and cannot be inconsistent with any provision of its charter, the FCU Act, NCUA regulations, or other laws or regulations applicable to the FCU's operations.

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

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency.

A Paperwork Reduction Act (PRA) notice was published in the preamble of the proposed rulemaking on November 13, 2018, at 83 FR 56640, 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.

There is no intent by NCUA to provide any payment or gift to respondents.

10. Assurance of confidentiality.

There is no assurance of confidentiality other than that provided by law.

11. Questions of a sensitive nature.

These are recordkeeping and disclosure requirement. No personally identifiable information (PII) is collected.

12. Burden of information collection.

As a preliminary matter, those persons choosing to organize a new FCU must comply with certain information collection requirements upon starting the FCU and first adopting these bylaws. Over the past three years, organizers have established an average of approximately three new FCUs each year. We estimate each new FCU must spend approximately 20 hours to initially comply with the bylaws' information collection requirements, for a total annual collection of 60 hours.

For current FCUs, it has been a usual and customary business practice, since their initial charter dates, to collect and maintain any information as specified the bylaws. To determine the current annual burden hours for this collection, NCUA staff reviewed each Article of the FCU Bylaws and have identified the following articles as containing information collection requirements.

The new information collection requirements prescribed by this proposal requires FCU to post annual meeting notices in a conspicuous place and in the FCU's physical location, publicize the call for nominations to all members, and post this information on FCU website along with the bylaws and any adopting amendments to their website, if applicable. There is an initial one-time burden to those FCU who maintain a website to post their bylaw to their site. The NCUA estimates that 97%, or 3,617 FCU have a web presence. The proposed changes to the information collection requirements associated with this proposed rule are shaded in the table below.

| | Article | # Respondents | # Responses Per Respondent | Total Annual Responses | Hours Per Response | Total Annual Burden | |
|--------|---|--|----------------------------|------------------------|--------------------|---------------------|------------|
| 1 | New FCU bylaws collection requirements | 3 | 1 | 3 | 20 | 60 | |
| 2 | II – Qualifications for Membership | Membership Application | 3,721 | 333 | 1,239,229 | 0.25 | 309,807.25 |
| | | Membership applications Denial* | 3,721 | 0.25 | 930 | 0.25 | 232.50 |
| 3 | IV – Meetings of Members | Notices related to member meetings | 3,721 | 1 | 3,721 | 1 | 3,721 |
| | | All Posting notices related to member meetings | 3,721 | 1 | 3,721 | 0.17 | 620 |
| | | Additional Posting notices related to member meetings on Website | 3,617 | 1 | 3,617 | 0.08 | 301 |
| 4 | V - Elections | Collecting and maintaining information for FCU elections | 3,721 | 1 | 3,721 | 8 | 29,768 |
| | | All Publicizing the call for nominations | 3,721 | 1 | 3,721 | 0.50 | 1,860.50 |
| | | Additional Posting nominations on website | 3,617 | 1 | 3,617 | 0.17 | 603 |
| | | Section 6 – Report of Officials. | OMB No. 3133-0004 | | | | |
| 5 | VI – Board of Directors | Board meeting notices | 3,721 | 1 | 3,721 | 1 | 3,721 |
| 6 | XVI – General | FCU recordkeeping specified in Sections 5 and 6** | 3,721 | 1 | 3,721 | 24 | 89,304 |
| | | ONE-TIME Posting Bylaws to an FCU's website | 3,617 | 1 | 3,617 | 1 | 3,617 |
| 7 | XVII – Amendments of Bylaws and Charter | Updating the bylaws on an FCU's website | 3,617 | 1 | 3,617 | 0.50 | 1,809 |
| TOTALS | | | 3,721 | | 1,276,956 | | 445,424 |

* One-quarter of all FCUs deny one member per year.

** This includes, for example, the time that it takes each FCU time to prepare and maintain the minutes of its board meetings, annual meeting, and committees meetings. NCUA's estimate also includes retention of the FCU's certificate of incorporation, bylaws, and any records of bylaw amendments, which occur infrequently.

NCUA does not believe that FCUs will incur any additional labor costs as a result of the bylaw requirements since these are in accordance with the FCUs' usual and customary business practices. The FCU bylaws address integral parts of an FCU's operations as member-owned, not-for-profit financial cooperatives. Since an FCU could not operate as a federally chartered and insured credit union without complying with these collections, there is no additional labor cost burden.

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

There are no capital start-up or operation and maintenance costs incurred.

14. Annualized costs to the Federal government.

There is no cost to the Federal government.

15. Reason for changes in burden.

The proposal will amend information collection requirements under several articles to encourage greater participation by members by requiring FCU to post annual meeting notices in a conspicuous place and in the FCU's physical location, publicize the call for nominations to all members, and post this information on FCU website along with the bylaws and any adopting amendments to their website, if applicable. As a result of these disclosure requirements, there is an increase of 8,810 burden hours due to the proposed program changes.

16. Information collection planned for statistical purposes.

There are no plans for publication.

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

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government's electronic PRA docket at www.reginfo.gov.

18. Exceptions to Certification for Paperwork Reduction Act Submissions.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.