

**Supporting Statement for Paperwork Reduction Act Submission**  
**OMB Control Number 3133-0149**  
**Credit Union Service Organizations**  
**12 C.F.R. Part 712**  
**2015**

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

Part 712 (Part 712 or the rule) of the National Credit Union Administration's (NCUA) regulations<sup>1</sup> implements authority in the Federal Credit Union Act<sup>2</sup> (FCU Act) relating to federally insured credit union (FICU) lending or investment activity with a credit union service organization (CUSO). The rule addresses NCUA's safety and soundness concerns for activities conducted by CUSOs and imposes certain recordkeeping obligations on FICUs that have investment or lending relationships with, or conduct operations through, CUSOs. Certain reporting obligations are imposed on CUSOs as a result of the rule.<sup>3</sup>

NCUA is revising the currently approved information collection, OMB Control Number 3133 – 0149, to reflect amendments to the information collections (IC) in Part 712.<sup>4</sup> Part 712 was amended to extend certain aspects of the rule to federally insured, state chartered credit unions (FISCU) and to add new requirements for FICUs. Under the amended rule, FICUs with an investment in, or loan to, a CUSO must obtain a written agreement with the CUSO (or revise any current agreement the FICU has with a CUSO) to provide that the CUSO will: (1) account for all its transactions in accordance with generally accepted accounting principles (GAAP); (2) prepare quarterly financial statements and obtain an annual financial statement audit of its financial statements by a licensed certified public accountant; (3) provide complete access to the books and records of the CUSO; and (4) annually report directly to NCUA and the appropriate state supervisory authority (SSA) certain financial and other information prescribed by the rule. 12 C.F.R. §712.3(d).

The report (CUSO Registry) must contain basic registration information, including the CUSO's name and address, point of contact, services offered, the names and charter numbers of credit unions investing in, lending to, or receiving services from the CUSO, and investor and subsidiary information. In addition, for any CUSO engaged in complex or high-risk activities, as defined in the rule, the report must contain additional, enhanced, more detailed information, including audited financial statements and more specific customer information. 12 C.F.R. §712.3(d)(4).

A FICU and a CUSO must be operated in a manner that demonstrates to the public the separate corporate existence of the FICU and the CUSO. Section 712.4(b) requires that prior

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<sup>1</sup> 12 C.F.R. Part 712.

<sup>2</sup> 12 U.S.C. §§1756, 1757(5)(D), 1757(7)(I), 1766, 1782, 1784, 1785, and 1786.

<sup>3</sup> The CUSO reporting requirements under §712.3(d)(4) and (5) also apply to CUSOs owned by corporate credit unions pursuant to final amendments to 12 C.F.R. Part 704, Corporate Credit Unions. 87 FR 25932, 25934, and 25938 (May 6, 2015). See §704.11(g)(4). The estimated IC burden on corporate CUSOs is included in this submission in Items 12 and 13.

<sup>4</sup> 78 FR 72537 (Dec. 3, 2013).

to investing in a CUSO, the FICU must obtain a written legal opinion confirming the CUSO is established in a legally sufficient way to limit the FICU's exposure to loss of its loans or investments in the CUSO. 12 C.F.R. §712.4(b).

The amendments also require that a FICU that is, or as a result of recapitalizing an insolvent CUSO, will become less than adequately capitalized must, under certain circumstances, obtain NCUA (or SSA, if applicable) approval to recapitalize a CUSO that has become insolvent. 12 C.F.R. §712.2(d).

In summary, Part 712 contains the following IC requirements:

- IC 1. Before making a loan to, or investment in, a CUSO, a FICU must obtain a written agreement from the CUSO (or revise any current agreement the FICU has with a CUSO) that the CUSO will: follow GAAP; prepare financial statements at least quarterly and obtain an annual opinion audit from a certified public accountant; provide access to its books and records to NCUA and the appropriate SSA; and annually report financial and other information directly with NCUA and the appropriate SSA. (Recordkeeping requirement).
- IC 2. A FICU with an investment in, or loan to, a CUSO must obtain a written legal opinion confirming the CUSO is established in a legally sufficient way to limit the FICU's exposure to loss of funds invested in, or loaned to, the CUSO. (Recordkeeping requirement).
- IC 3. A FICU that is or, as a result of recapitalizing an insolvent CUSO will become, less than adequately capitalized, must seek NCUA's or the appropriate SSA's approval before recapitalizing a CUSO that has become insolvent. (Reporting requirement).
- IC 4. A CUSO with an investment or loan from a FICU must annually submit a report directly to NCUA and the appropriate SSA, if applicable, containing financial and other information prescribed in Part 712. (Reporting requirement).

These requirements enable NCUA to monitor a FICU's involvement with its CUSO for safety and soundness purposes and to help assure that CUSOs are properly established and maintained in accordance with applicable state law. NCUA notes some elements of the rule reflect sound business judgment and represent usual and customary business practices. For example, obtaining a written agreement with an entity before investing funds in its operations, requiring that its financial statements be prepared in accordance with GAAP, and obtaining a legal opinion as to corporate matters are standard business practices. The burden hours reported in Item 12 below exclude the hours attributable to engaging in these usual and customary business activities.

## **2. Purpose and Use of the Information Collection**

NCUA conducts regular, periodic examinations of FCUs and participates in examinations of FISCUs. As part of the examination process, NCUA reviews written agreements, legal

opinions, and CPA opinion audits relating to FCU involvement with CUSOs to determine the safety and soundness of the FCU. This information is critical in preventing or minimizing losses to the National Credit Union Share Insurance Fund (NCUSIF), which provides federally guaranteed share (deposit) account insurance for all FICUs.

FISCUs are exposed to significant potential safety and soundness and reputation risks based on their relationship with their CUSOs. Although NCUA has the right to examine books and records belonging to a FISCU, it also needs access to the books and records of the CUSO. Without that access, NCUA cannot thoroughly and accurately evaluate the potential risks CUSOs pose to FISCUs and, ultimately, the risk to the NCUSIF.

It should be noted that not all states impose the same type of relatively strict investment and lending limits in the FCU Act, which limit FCU loans to, and investment in, all CUSOs to one percent of the FCU's unimpaired capital and surplus, respectively. 12 U.S.C. §1757(7) (I). Similarly, not all states limit the types of activities in which a CUSO may engage. Further, without some assurance that the FISCU is insulated from claims that might be asserted against its CUSO, there is risk that the FISCU could lose more than the value of its investment in its CUSO.

Currently, NCUA cannot fully identify the total number of CUSOs that exist, the financial state of CUSOs, or the full range of services offered by CUSOs. Access to this information is necessary because of the relationship between CUSOs and credit unions. The information NCUA is currently able to collect is incomplete because NCUA is collecting third party information about CUSOs indirectly from credit unions instead of directly from the CUSOs themselves. In order to identify emerging risks posed by CUSOs and to protect the NCUSIF, it is imperative that NCUA has complete and accurate financial and operational information about CUSOs and the nature of their services.

### **3. Consideration Given to Information Technology**

NCUA plans to implement secure online technology for the CUSOs' direct submission of financial and other reports. Development of the CUSO Registry is underway, which will provide fully electronic reporting by CUSOs. At a minimum, NCUA information systems adhere to the National Institute of Standards and Technology (NIST) security controls and guidelines at the moderate level.

### **4. Duplication**

Part 712 is the only rule that pertains to FICU investments in, or loans to, CUSOs. The information the rule requires is unique to each credit union or situation. Currently, NCUA collects CUSO related information on the NCUA Form 5300 Call Report and the NCUA Form 4501A Online CU Profile (OMB Control No. 3133-0004). Upon successful implementation of the CUSO Registry, NCUA plans to eliminate the duplicate information collected on the Call Report and Online CU Profile.

## **5. Effect on Small Entities**

The burden on small FICUs is minimal because much of the required information collection is already maintained by FICUs that have a relationship with a CUSO.

NCUA considers credit unions having less than \$50 million in assets to be small for purposes of the Regulatory Flexibility Act<sup>5</sup>. As of December 31, 2014, there were 4,050 FICUs with assets under \$50 million. Of those 4,050, only 672 (17%) reported any interest (loan or investment) in a CUSO. Since approximately only 17 percent of small credit unions reported having any interest in a CUSO, NCUA determined the rule does not have a significant economic impact on a substantial number of small credit unions.

NCUA is implementing online technology and submission capability to minimize the burden on CUSOs. NCUA is developing the CUSO Registry, an automated self-registration and reporting system which allows a CUSO to meet the reporting requirements of Part 712.

## **6. Consequences of not Conducting Collection**

Failure to require these collections would expose FICUs to significant losses and could result in losses to the NCUSIF.

## **7. Inconsistencies with Guidelines in 5 C.F.R. §1320.5(d)(2)**

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

## **8. Consultations Outside the Agency**

NCUA has an ongoing commitment to communicate and interact with the SSAs, the National Association of State Credit Union Supervisors (NASCUS), and various credit union trade associations. NCUA previously requested comments in response to a notice on “Information Collection Activities: Submission to OMB for Revision of a Currently Approved Information Collection, Credit Union Service Organizations” due September 4, 2015. 80 FR 38475 (published in the Federal Register on July 6, 2015). NCUA received comments in response to this sixty-day notice. The comments expressed concerns with information security and confidentiality. Staff carefully reviewed and considered these comments and addressed them in Item 3 above and Item 10 below as follows:

**Security:** NCUA plans to implement secure online technology for the CUSOs’ direct submission of financial and other reports (CUSO Registry). Development of the CUSO Registry is underway, which will provide fully electronic reporting by CUSOs. At a minimum, NCUA information systems adhere to the National Institute of Standards and Technology (NIST) security controls and guidelines at the moderate level.

**Confidentiality:** The rule addresses documents, such as an agreement between a credit union and its CUSO and legal opinions, which are and would remain credit union property. There

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<sup>5</sup> Interpretive Ruling and Policy Statement (IRPS) 87-2, as amended by IRPS 03-2, 68 FR 30950 (May 29, 2003) and IRPS 13-1, 78 FR 4032 (Jan. 18, 2013).

is no requirement that the documents be made public. CUSO reports may contain or consist of trade secrets and commercial or financial information which relate to the business, personal, or financial affairs of a person or organization, are furnished to NCUA, and are privileged or confidential. This type of information is subject to withholding under exemption 4 of the Freedom of Information Act (FOIA). 12 U.S.C. §552(b)(4). Moreover, to the extent they are reviewed as part of an examination and become related to an examination report, the documents would remain non-public and exempt from public disclosure under exemption 8 of FOIA. 5 U.S.C. §552(b)(8).

NCUA also requested comments in response to a notice on “Information Collection Activities: Submission to OMB for Revision of a Currently Approved Information Collection, Credit Union Service Organizations” due October 28, 2015. 80 FR 58314 (published in the Federal Register on September 28, 2015). NCUA received comments in response to this thirty-day notice. The comments recommended utilizing NCUA’s examination staff to collect the CUSO information directly from the credit unions to reduce the burden on credit unions.

Examiner or regulator collection is the method currently employed. NCUA collects CUSO data from credit unions utilizing quarterly statistical reports consisting of the 5300 Call Report and the CU Online Profile. A regulatory review is performed both as part of this data collection and during a credit union examination or insurance review. Using this method results in duplication of effort among multiple credit unions who own an interest in a particular CUSO because this information is collected from all the owners of a particular CUSO. This method also results in data integrity issues. It does not result in any decrease in the current burden on credit unions.

The estimated annual hour burden reduction to credit unions as a result of implementing the CUSO Registry is 6,348 hours. This will be reflected in a reduction of hours under OMB Control No. 3133-0004—the 5300 Call Reports and the CU Online Profiles that credit unions submit quarterly to NCUA. The reduction will be accomplished through elimination of the credit union quarterly reporting of CUSO information, which will become redundant once an annual CUSO Registry reporting cycle is completed. Implementing the CUSO Registry will impose an estimated annual burden on CUSOs of 2,374.5 hours. The proposed changes will result in an estimated net reduction of the annual hour burden on the industry of 3,973.5 hours. Additional information about the net reduction in hours is explained in more detail in Items 12 and 15 below.

## **9. Payment or Gift**

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

## **10. Confidentiality**

The rule addresses documents, such as an agreement between a credit union and its CUSO, and legal opinions, which are and would remain credit union property. There is no requirement that the documents be made public. CUSO reports may contain or consist of trade secrets and commercial or financial information which relate to the business, personal,

or financial affairs of a person or organization, are furnished to NCUA, and are privileged or confidential. This type of information is subject to withholding under exemption 4 of the Freedom of Information Act (FOIA). 12 U.S.C. §552(b)(4). Moreover, to the extent they are reviewed as part of an examination and become related to an examination report, the documents would remain non-public and exempt from public disclosure under exemption 8 of FOIA. 5 U.S.C. §552(b)(8).

## 11. Sensitive Questions

No questions of a sensitive nature are asked.

## 12. Burden of Information Collection

Currently, NCUA cannot fully identify the total number of CUSOs that exist, the financial state of CUSOs, or the full range of services offered by CUSOs. Access to this information is necessary because of the relationship between CUSOs and credit unions.

### IC 1a. FISCUs - Changing the written agreement relating to certain accounting and reporting requirements.

Current information is incomplete because NCUA is collecting information about CUSOs indirectly from credit unions instead of directly from the CUSOs. Nevertheless, according to NCUA records, of the 2,346 FISCUs that filed a Form 5300 Call Report with NCUA as of December 31, 2014, 1,071 reported an interest in at least one CUSO. For purposes of this analysis, NCUA estimates that this requirement will affect all FISCUs reporting an interest in a CUSO. Using these estimates, the IC requirement imposed by this aspect of the rule, on an annual basis, is analyzed below.

FISCUs with a reported interest in a CUSO as of 12/31/2014:	1,071
Frequency of response:	one-time
Hour burden:	4 hours

4 hours x 1,071 = 4,284 hours

### IC 1b. FCUs - Changing the written agreement relating to certain reporting requirements.

In addition to the requirement for FISCUs to revise their agreements with CUSOs, this rule also requires FCUs with an investment in, or loan to, a CUSO to revise the current agreements they have with their CUSOs to provide that the CUSO will submit a financial report (CUSO Registry) directly to NCUA. According to NCUA records, of the 3,927 FCUs that filed a Form 5300 Call Report with NCUA as of December 31, 2014, 1,154 reported an interest in at least one CUSO. For purposes of this analysis, NCUA estimates that this requirement will affect all FCUs reporting an interest in a CUSO. Using these estimates, the IC requirement imposed by this aspect of the rule, on an annual basis, is analyzed below.

FCUs with a reported interest in a CUSO as of 12/31/2014:	1,154
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Frequency of response: one-time  
Hour burden: 4 hours

4 hours x 1,154 = 4,616 hours

## **IC 2. Written Legal Opinion.**

A FICU must obtain a written legal opinion confirming the CUSO is established in a legally sufficient way to limit the FICU's exposure to loss on its loans or investments in the CUSO. Current burden hours for this rule relate to new relationships between credit unions and CUSOs. Based on a four-year average of data showing the number of affected credit unions and number of loans to and investments in CUSOs, NCUA estimates a total of 133 new CUSO investments will be made each year.

FICUs: 133  
Frequency of response: on occasion

Hour burden: 2 hours

2 hours x 133 = 266 hours

## **IC 3. Obtaining regulatory approval.**

A FICU that is or, as a result of recapitalizing an insolvent CUSO will become, less than adequately capitalized, must apply for and obtain prior written approval from the FICU's regulator before recapitalizing a CUSO that has become insolvent. According to NCUA's records, as of December 31, 2014, there were only 49 FICUs that were less than adequately capitalized (i.e., net worth of under 6%). Of these FICUs, 9 reported having an interest in a CUSO. NCUA estimates it would take a FICU approximately two hours to complete a request for the regulator's approval for an investment to recapitalize an insolvent CUSO.

Number of less than adequately capitalized FICUs with an interest in a CUSO  
as of 12/31/2014: 9  
Frequency of response: on occasion  
Hour burden: 2 hours

2 hours x 9 = 18 hours

## **IC 4a. CUSO reporting to NCUA – basic information.**

According to NCUA records, the 6,273 FICUs that filed a Form 5300 Call Report with NCUA as of December 31, 2014, reported a total of 1,149 unique CUSO interests based upon individual Employer Identification Numbers.

CUSOs as of 12/31/2014: 1,149  
Frequency of response: annual  
Hour burden: 0.5 hour

0.5 hour x 1,149 = 574.5 hours

**IC 4b. CUSO engaged in complex or high-risk activities reporting to NCUA – expanded information.**

NCUA estimates that of the 1,149 CUSO interests reported above, 600 CUSOs are engaging in complex or high-risk activities (i.e., credit and lending, IT, or custody, safekeeping, and investment management services). These CUSOs must furnish additional detailed information in the report in addition to the basic information described above.

CUSOs as of 12/31/2014:	600
Frequency of response:	annual
Hour burden:	3 hours

3 hours x 600 = 1,800 hours

Grand Total Estimated Burden Hours: 11,558.5 hours

The table below summarizes the above information.

Information Collection Activity	Number of Respondents	Frequency of Response (Annual, On Occasion, etc.)	Number of Responses	Burden Hours per Response	Annual Hourly Burden
	(A)	(B)	(C)	(D)	(E)
IC 1a <i>FISCUs changing the written agreement relating to certain accounting and reporting requirements</i>	1,071	One-Time	1,071	4 Hours	<b>4,284 Hours</b>
IC 1b <i>FCUs changing the written agreement relating to certain reporting requirements</i>	1,154	One-Time	1,154	4 Hours	<b>4,616 Hours</b>
IC 2 <i>Obtaining written legal opinion</i>	133	On occasion	133	2 Hours	<b>266 Hours</b>
IC 3 <i>Obtaining regulatory approval</i>	9	On occasion	9	2 Hours	<b>18 Hours</b>
IC 4a <i>CUSO reporting to NCUA – basic information</i>	1,149	Annual	1,149	0.5 Hours	<b>574.5 Hours</b>
IC 4b <i>CUSO reporting to NCUA – expanded information</i>	600	Annual	600	3 Hours	<b>1,800 Hours</b>
<b>Total</b>	<b>4,116</b>				<b>11,558.5 Hours</b>



### 13. Costs to Respondents

Costs to FICUs: There is no submission or filing fee associated with these information collections. Any ancillary costs such as copying charges or postage would be de minimis. While there are professional fees associated with securing a CPA opinion audit and a legal opinion, these services are part of the usual and customary business practice in this context and so are not included here. FICUs incur costs for preparing and filing applications for regulatory approval for the recapitalization of CUSOs. There are no capital and start-up costs.

Costs to CUSOs: NCUA has no data relating to the salaries of CUSO employees to determine the cost of CUSO direct reporting. However, we believe the cost would approximate the salary expense of federally insured credit union employees. As of December 31, 2014, federally insured credit unions reported an average salary and benefits cost of \$31.84 per hour.

Grand Total Estimated Costs to Respondents: \$76,177.20

The table below summarizes the above cost information.

Information Collection Activity	Annual Hourly Burden	Hourly \$ Rate per Response	Total \$ Amount
IC 1a. <i>FISCUs changing the written agreement relating to certain accounting and reporting requirements</i>	4,284 Hours	\$0.00	\$0.00
IC 1b. <i>FCUs changing the written agreement relating to certain reporting requirements</i>	4,616 Hours	\$0.00	\$0.00
IC 2. <i>Obtaining written legal opinion</i>	266 Hours	\$0.00	\$0.00
IC 3. <i>Obtaining regulatory approval</i>	18 Hours	\$31.84	\$573.12
IC 4a. <i>CUSO reporting to NCUA – basic information</i>	574.5 Hours	\$31.84	\$18,292.08
IC 4b. <i>CUSO reporting to NCUA – expanded information</i>	1,800 Hours	\$31.84	\$57,312.00
<b>Total</b>	<b>11,558.5 Hours</b>		<b>\$76,177.20</b>

### 14. Costs to Federal Government

NCUA conducts regular, periodic examinations of FCUs and frequently participates in examinations of FISCUs by SSAs. Insofar as these examinations consider all aspects of a credit union's business, including relationships with any CUSOs, there is no additional cost to NCUA relating to the ICs contained in this rule. In addition, NCUA routinely receives and reviews requests from credit unions on various issues, and is prepared to process requests concerning recapitalization of CUSOs without additional cost.

The total estimated development cost to date, which includes system documentation, training,

acceptance testing and other system deployment costs for the CUSO Registry System is approximately \$1.4 million. There will be ongoing costs for maintenance of the CUSO Registry System which will be integrated into the development of future annual budgets. These ongoing costs are undetermined at this time.

## 15. Changes in Burden

Changes in burden since the last OMB submission are detailed by each IC, below:

IC 1a. Burden increase is due to the extension of the recordkeeping burden to all FISCUs with a loan or investment in a CUSO.

IC 1b. Burden increase is due to:

- A change in the recordkeeping burden from an annual average number of FCUs to all FCUs with a loan to, or investment in, a CUSO,
- An increase in estimated time from two to four hours to amend the agreement with a CUSO.

IC 2. Burden is unchanged from the current burden reported to OMB.

IC 3. There is a reduction in burden due to a change in the estimated number of respondents.

IC 4a. This is a new collection item.

IC 4b. This is a new collection item.

### Hour burden reduction to the 5300 Call Report and CU Online Profile:

Upon successful implementation of the CUSO Registry System, NCUA will reduce the FICU reporting requirement under the 5300 Call Report and CU Online Profile (OMB Control Number 3133-0004) as follows:

#### *Completing the CUSO section of 5300 Call Report:*

FICUs with a reported relationship with a CUSO as of 12/31/2014:	2,645
Frequency of response:	Quarterly
Reduced hour burden:	0.4 hour

$0.4 \text{ hour} \times 2,645 \times 4 = 4,232$

#### *Completing the CUSO section of CU Online Profile:*

FICUs with a reported relationship with a CUSO as of 12/31/2014:	2,645
Frequency of response:	Quarterly
Reduced hour burden:	0.2 hour

0.2 hour x 2,645 x 4 = 2,116

Total estimated reduction in burden hours: 6,348.

This change will result in a total burden hour reduction of an estimated 6,348 hours relating to FICUs reporting about CUSOs under OMB Control Number 3133-0004 as compared to the estimated increase of 2,374.5 hours of individual CUSO direct reporting under Part 712. The reduction in burden hours in OMB Control Number 3133-0004 is due to an individual CUSO directly reporting information to NCUA rather than each FICU reporting to NCUA information about particular CUSOs. Changing the frequency of reporting from quarterly to annually further reduces the reporting burden on the industry.

**16. Information Collection Planned for Statistical Purposes**

Not applicable. The information collection is not used for statistical purposes.

**17. Approval to Omit OMB Expiration Date**

NCUA is not seeking approval to omit the expiration date.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

This collection complies with the requirements in 5 C.F.R. §1320.9.