

§ 712.9

§ 712.9 [Reserved]

§ 712.10 How can a state supervisory authority obtain an exemption for FISCUs from compliance with § 712.3(d)(1), (2), and (3)?

(a) The NCUA Board may exempt FISCUs in a given state from compliance with any or all of § 712.3(d)(1), (2), and (3) if the NCUA Board determines the laws in that state are equal to, or more stringent than, § 712.3(d)(1), (2), and (3), and the laws and procedures available to the supervisory authority in that state are sufficient to provide NCUA with the degree of access and information it believes is necessary to evaluate the safety and soundness of FISCUs having business relationships with CUSOs owned by FISCUs in that state.

(b) To obtain an exemption, the state supervisory authority must submit a copy of the legal authority pursuant to which it secures the information required in § 712.3(d)(1), (2), and (3) of this part to NCUA's regional office having responsibility for that state, along with all procedural and operational documentation supporting and describing the actual practices by which it implements and exercises the authority.

(c) The state supervisory authority must provide the regional director with an assurance that NCUA examiners will be provided with co-extensive authority and will be allowed direct access to CUSO books and records at such times as NCUA, in its sole discretion, may determine necessary or appropriate. For purposes of this section, access includes the right to make and retain copies of any CUSO record, as to which NCUA will accord the same level of control and confidentiality that it uses with respect to all other examination-related materials it obtains in the course of its duties.

(d) The state supervisory authority must also provide the regional director with an assurance that NCUA, upon request, will have access to copies of any financial statements or reports which a CUSO has provided to the state supervisory authority.

(e) The regional director will review the applicable authority, procedures and assurances and forward the exemption request, along with the regional

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director's recommendation, to the NCUA Board for a final determination.

(f) For purposes of this section, whether an entity is a CUSO shall be determined in accordance with the definition set out in § 741.222 of this chapter.

[78 FR 72549, Dec. 3, 2013]

§ 712.11 What requirements apply to subsidiary CUSOs?

(a) *FCUs investing in a CUSO with a subsidiary CUSO.* FCUs may only invest in or loan to a CUSO, which has a subsidiary CUSO, if the subsidiary CUSO satisfies all of the requirements of this part. The requirements of this part apply to all tiers or levels of a CUSO's structure.

(b) *FISCUs investing in a CUSO with a subsidiary CUSO.* FISCUs may only invest in or loan to a CUSO which has a subsidiary CUSO, if the subsidiary CUSO complies with the following:

(1) All applicable state laws and rules regarding CUSOs; and

(2) All of the requirements of this part that apply to FISCUs, which are listed in § 712.1. The requirements of this part that apply to FISCUs apply to all tiers or levels of a CUSO's structure.

(c) For purposes of this section, a subsidiary CUSO is any entity in which a CUSO has an ownership interest of any amount, if that entity is engaged primarily in providing products or services to credit unions or credit union members.

[78 FR 72549, Dec. 3, 2013]

PART 713—FIDELITY BOND AND INSURANCE COVERAGE FOR FEDERAL CREDIT UNIONS

Sec.

713.1 What is the scope of this section?

713.2 What are the responsibilities of a credit union's board of directors under this section?

713.3 What bond coverage must a credit union have?

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713.7 May the NCUA Board require a credit union to secure additional insurance coverage?

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AUTHORITY: 12 U.S.C. 1761a, 1761b, 1766(a), 1766(h), 1789(a)(11).

SOURCE: 64 FR 28720, May 27, 1999, unless otherwise noted.

§ 713.1 What is the scope of this section?

This section provides the requirements for fidelity bonds for Federal credit union employees and officials and for other insurance coverage for losses such as theft, holdup, vandalism, etc., caused by persons outside the credit union.

§ 713.2 What are the responsibilities of a credit union's board of directors under this section?

The board of directors of each Federal credit union must at least annually review its fidelity and other insurance coverage to ensure that it is adequate in relation to the potential risks facing the credit union and the minimum requirements set by the Board.

[64 FR 28720, May 27, 1999, as amended at 64 FR 57365, Oct. 25, 1999]

§ 713.3 What bond coverage must a credit union have?

At a minimum, your bond coverage must:

(a) Be purchased in an individual policy from a company holding a certifi-

Assets	Minimum bond
\$0 to \$4,000,000	Lesser of total assets or \$250,000.
\$4,000,001 to \$50,000,000	\$100,000 plus \$50,000 for each million or fraction thereof over \$1,000,000.
\$50,000,000 to \$500,000,000	\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000, to a maximum of \$5,000,000.
Over \$500,000,000	One percent of assets, rounded to the nearest hundred million, to a maximum of \$9,000,000.

(b) This is the minimum coverage required, but a federal credit union's board of directors should purchase additional or enhanced coverage when its circumstances warrant. In making this determination, a board of directors should consider its own internal risk assessment, its fraud trends and loss experience, and factors such as its cash on hand, cash in transit, and the nature and risks inherent in any expanded services it offers such as wire transfer and remittance services.

cate of authority from the Secretary of the Treasury; and

(b) Include fidelity bonds that cover fraud and dishonesty by all employees, directors, officers, supervisory committee members, and credit committee members.

§ 713.4 What bond forms may be used?

(a) A current listing of basic bond forms that may be used without prior NCUA Board approval is on NCUA's Web site, <http://www.ncua.gov>. If you are unable to access the NCUA website, you can get a current listing of approved bond forms by contacting NCUA's Public and Congressional Affairs Office, at (703) 518-6330.

(b) To use any of the following, you need prior written approval from the Board:

- (1) Any other basic bond form; or
- (2) Any rider or endorsement that limits coverage of approved basic bond forms.

[64 FR 28720, May 27, 1999, as amended at 70 FR 61716, Oct. 26, 2005; 73 FR 30478, May 28, 2008]

§ 713.5 What is the required minimum dollar amount of coverage?

(a) The minimum required amount of fidelity bond coverage for any single loss is computed based on a federal credit union's total assets.

(c) While the above is the required minimum amount of bond coverage, credit unions should maintain increased coverage equal to the greater of either of the following amounts within thirty days of discovery of the need for such increase:

- (1) The amount of the daily cash fund, i.e. daily cash plus anticipated daily money receipts on the credit union's premises, or

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(2) The total amount of the credit union’s money in transit in any one shipment.

(3) Increased coverage is not required pursuant to paragraph (c) of this section, however, when the credit union temporarily increased its cash fund because of unusual events which cannot reasonably be expected to recur.

(d) Any aggregate limit of liability provided for in a fidelity bond policy must be at least twice the single loss limit of liability. This requirement does not apply to optional insurance coverage.

(e) Any proposal to reduce your required bond coverage must be approved in writing by the NCUA Board at least twenty days in advance of the proposed effective date of the reduction.

[64 FR 28720, May 27, 1999, as amended at 70 FR 61716, Oct. 26, 2005]

§713.6 What is the permissible deductible?

(a)(1) The maximum amount of allowable deductible is computed based on a federal credit union’s asset size and capital level, as follows:

Assets	Maximum deductible
\$0 to \$100,000	No deductible allowed.
\$100,001 to \$250,000.	\$1,000.
\$250,000 to \$1,000,000.	\$2,000.
Over \$1,000,000	\$2,000 plus $\frac{1}{1000}$ of total assets up to a maximum of \$200,000; for credit unions that have received a composite CAMEL rating of “1” or “2” for the last two (2) full examinations and maintained a net worth classification of “well capitalized” under part 702 of this chapter for the six (6) immediately preceding quarters or, if subject to a risk-based net worth (RBNW) requirement under part 702 of this chapter, has remained “well capitalized” for the six (6) immediately preceding quarters after applying the applicable RBNW requirement, the maximum deductible is \$1,000,000.

(2) The deductibles may apply to one or more insurance clauses in a policy. Any deductibles in excess of the above amounts must receive the prior written permission of the NCUA Board.

(b) A deductible may not exceed 10 percent of a credit union’s Regular Reserve unless a separate Contingency Reserve is set up for the excess. In

computing the maximum deductible, valuation accounts such as the allowance for loan losses cannot be considered.

(c) A federal credit union that has received a composite CAMEL rating of “1” or “2” for the last two (2) full examinations and maintained a net worth classification of “well capitalized” under part 702 of this chapter for the six (6) immediately preceding quarters or, if subject to a risk-based net worth (RBNW) requirement under part 702 of this chapter, has remained “well capitalized” for the six (6) immediately preceding quarters after applying the applicable RBNW requirement is eligible to qualify for a deductible in excess of \$200,000. The credit union’s eligibility is determined based on it having assets in excess of \$1 million as reflected in its most recent year-end 5300 call report. A federal credit union that previously qualified for a deductible in excess of \$200,000, but that subsequently fails to qualify based on its most recent year-end 5300 call report because either its assets have decreased or it no longer meets the net worth requirements of this paragraph or fails to meet the CAMEL rating requirements of this paragraph as determined by its most recent examination report, must obtain the coverage otherwise required by paragraph (b) of this section within 30 days of filing its year-end call report and must notify the appropriate NCUA regional office in writing of its changed status and confirm that it has obtained the required coverage.

[64 FR 28720, May 27, 1999, as amended at 70 FR 61716, Oct. 26, 2005; 77 FR 31992, May 31, 2012]

EFFECTIVE DATE NOTE: At 80 FR 66723, Oct. 29, 2015, §713.6 was amended by revising the table in paragraph (a)(1) and, in paragraph (c), by removing the words “net worth” each place they appear and adding in their place the word “capital”, and removing the words “or, if subject to a risk-based net worth (RBNW) requirement under part 702 of this chapter, has remained ‘well capitalized’ for the six (6) immediately preceding quarters after applying the applicable RBNW requirement,”, effective Jan. 1, 2019. For the convenience of the user, the revised text is set forth as follows:

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§ 713.6 What is the permissible deductible?

(a)(1) * * *

Assets	Maximum deductible
\$0 to \$100,000	No deductible allowed.
\$100,001 to \$250,000.	\$1,000.
\$250,000 to \$1,000,000.	\$2,000.
Over \$1,000,000	\$2,000 plus 1/1000 of total assets up to a maximum of \$200,000; for credit unions that have received a composite CAMEL rating of "1" or "2" for the last two (2) full examinations and maintained a capital classification of "well capitalized" under part 702 of this chapter for the six (6) immediately preceding quarters the maximum deductible is \$1,000,000.

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§ 713.7 May the NCUA Board require a credit union to secure additional insurance coverage?

The NCUA Board may require additional coverage when the Board determines that a credit union's current coverage is inadequate. The credit union must purchase this additional coverage within 30 days.

PART 714—LEASING

Sec.

- 714.1 What does this part cover?
- 714.2 What are the permissible leasing arrangements?
- 714.3 Must you own the leased property in an indirect leasing arrangement?
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- 714.5 What is required if you rely on an estimated residual value greater than 25% of the original cost of the leased property?
- 714.6 Are you required to retain salvage powers over the leased property?
- 714.7 What are the insurance requirements applicable to leasing?
- 714.8 Are the early payment provisions, or interest rate provisions, applicable in leasing arrangements?
- 714.9 Are indirect leasing arrangements subject to the purchase of eligible obligation limit set forth in § 701.23 of this chapter?
- 714.10 What other laws must you comply with when engaged in leasing?

AUTHORITY: 12 U.S.C. 1756, 1757, 1766, 1785, 1789.

SOURCE: 65 FR 34585, May 31, 2000, unless otherwise noted.

§ 714.1 What does this part cover?

This part covers the standards and requirements that you, a federal credit union, must follow when engaged in the leasing of personal property.

§ 714.2 What are the permissible leasing arrangements?

(a) You may engage in direct leasing. In direct leasing, you purchase personal property from a vendor, becoming the owner of the property at the request of your member, and then lease the property to that member.

(b) You may engage in indirect leasing. In indirect leasing, a third party leases property to your member and you then purchase that lease from the third party for the purpose of leasing the property to your member. You do not have to purchase the leased property if you comply with the requirements of § 714.3.

(c) You may engage in open-end leasing. In an open-end lease, your member assumes the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end.

(d) You may engage in closed-end leasing. In a closed-end lease, you assume the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end. However, your member is always responsible for any excess wear and tear and excess mileage charges as established under the lease.

§ 714.3 Must you own the leased property in an indirect leasing arrangement?

You do not have to own the leased property in an indirect leasing arrangement if:

(a) You obtain a full assignment of the lease. A full assignment is the assignment of all the rights, interests, obligations, and title in a lease to you, that is, you become the owner of the lease;

(b) You are named as the sole lienholder of the leased property;

(c) You receive a security agreement, signed by the leasing company, granting you a sole lien in the leased property and the right to take possession and dispose of the leased property in